GENERAL RULES

AND

CIRCULAR ORDERS

OF THE

CALCUTTA HIGH COURT

(CIVIL SIDE.)

Re-printed, by Permission of the Court,

AND

EDITED, WITH THE ADDITION OF AN INDEX,

BY

C. D. FIELD, ESQ.,

BENGAL CIVIL SERVICE, REGISTRAR OF THE COURT ON ITS APPELLATE SIDE,
AUTHOR OF "THE LAW OF EVIDENCE IN INDIA,"
"RENT LAW PROCEDURE, &C. &C.

CALCUTTA:

PRINTED BY C. B LEWIS, AT THE BAPTIST MISSION PRESS.

1868.

347.9
C 144 F

3742

PREFACE.

Section 40, Act XXIII. of 1861, is as follows :—

"The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of [that Court and] the Courts subordinate to it, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, for keeping all books, entries and accounts to be kept by the Officers, [and for the preparation and submission of any statements to be prepared and submitted by such Courts] and from time to time to alter any such rule or form: provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. [Any rules framed under this Section, shall be published in the Official Gazette."]*

Section 443, Act XXV. of 1861, enacts in nearly the same terms as follows—"The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court

* Section 381, Act VIII. of 1859, repealed by Section 1, Act XXIII. of 1861, contained exactly the same provisions with the exception of the words in brackets and the word "and" before "for keeping all books &c.," which word is omitted in the above Section of Act XXIII.

and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries and accounts to be kept in such Courts, and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form. Provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Court under this Section shall be published in the Official Gazette."

By virtue of the power vested in the High Court under these two Sections,* one of the Code of Civil Procedure, the other of the Code of Criminal Procedure, those GENERAL RULES AND CIRCULAR ORDERS, which form the contents of this volume, have been made and issued. There is a vast mass of Circular Orders passed by the old Sudder Court, of which many have become obsolete; many are wholly inapplicable to the present state of things, having been suggested by views of expediency, which no longer exist; while many more must be considered as rescinded with those Acts or Regulations under the authority of which they were issued. To select out of this mass, all that must be held to be at present in force, and to put it in a collected form for facility of reference is a task, which I had once proposed to

* See also 24 and 25, Vict. Cap. 104, s. 15, which confers similar powers.

myself. I found, however, on making the attempt, that I could not satisfactorily perform it, as the work of selection involved the omission of much, that could only be omitted with safety on the authority of the Court. This authority could be granted only after the Judges had given the subject their deliberate consideration, which could not conveniently be done at the present time.

The volume, now published *with the permission of the Court* contains all the general Rules and Circular Orders issued to the Courts in the Mofussil subordinate to the Calcutta High Court since the 1st July, 1862, (the date on which the High Court was established) with the exception of such as have been expressly rescinded by the same authority, which issued them. Those which are of general and present applicability are printed in the larger type. Those, which do not generally apply, or which, having fulfilled the object for which they were issued, have no longer vitality (*e. g.* calls for statistical returns, which have been complied with) or which have become to a certain extent obsolete are printed in smaller type. In the foot notes will be found such Circular Orders of the late Sudder Court as have been expressly referred to, and recognized by the Rules and Orders of the existing High Court. Occasional information and references are also given in small foot notes or italicised notes in parentheses at the end of the Circular Orders and for these the Editor is wholly responsible.

The authorities to whom the Rules and Orders are addressed will generally appear from their contents.

Where, however, there might be any doubt, this is removed by the addition of an appropriate heading.

The addition of a carefully prepared Index will, it is hoped, increase the utility of the work by promoting facility of reference and by enabling information to be found without delay, which is often urgently required, and the value of which is enhanced in no slight degree, by being obtainable when wanted.

C. D. FIELD.

CALCUTTA, *September 15th*, 1868.

GENERAL RULES

AND

CIRCULAR ORDERS

OF THE

CALCUTTA HIGH COURT.

(CIVIL SIDE.)

Circular, No. 1.

DATED, CALCUTTA, THE 11TH JULY, 1862.

Mr. Justice Raikes.

I am directed to request that you will be so good as to submit as soon as possible a statement showing the amount of Meeran fees received during the past year in your Court, as well as in those of the Principal Sudder Ameen and Moonsiffs in your district, exhibiting each separately.

Circular, No. 2.

DATED, CALCUTTA, THE 11TH JULY, 1862.

To the Civil Authorities in the Non-Regulation Provinces.

Mr. Justice Raikes.

The Court do not consider it to be necessary that they should be furnished with monthly statements from any Non-Regulation districts, and therefore direct that they be supplied with *quarterly instead of monthly statements* from the date of the receipt hereof.

Judicial Commissioners are, however, at liberty to continue the monthly statements for their own office, if they think that the unsatisfactory state of the files of any of their subordinate

officers requires a closer supervision than is obtained from the quarterly statements.

(NOTE.—*The Civil Statements are now furnished quarterly from all Regulation Districts also.)*

Circular, No. 3.

DATED, CALCUTTA, THE 22ND JULY, 1862.

The Chief Justice.
Mr. Justice Raikes.
" " Trevor.
" " Bayley.
" " Steer.
" " Kemp.
" " Seton-Karr.
" " Jackson (L.S.)
" " Morgan.

I am directed by the Honorable the Chief Justice and the other Judges of the High Court to request that you will read out in open Court, and then affix to some conspicuous place in your Court, the following

NOTIFICATION.

1. The Regular and Special Appeals of 1862 are now being heard by a separate Bench of the High Court.

2. Parties and their agents are therefore requested to take immediate notice of this fact, and to expedite the preparation and progress of their appeals.

(১) ১৮৬২ সালের নম্বরি এবং খাস আপীলে হাই কোর্টের সতন্ত্র এজলাসে সুনানি হইতেছে।

(২) অতএব আইলে মামেলাগণ এবং তাহারদিগের মোক্তারাণ অত্র বিশয়ের সংবাদ সত্বর অবগত হইয়া আপন ২ মকদ্দমা প্রস্তুত করিবেন।

Circular, No. 4.

DATED, CALCUTTA, THE 19TH AUGUST, 1862.

Mr. Justice Trevor.

As the commencement of the Dusserah vacation on the 26th September will in many cases prevent the punctual submission of the Civil and Sessions Statements of that month, I am directed to request that you will inform your subordinate judicial and ministerial officers, that they should, on no account, avail themselves of the vacation, until they have submitted all the statements and explanations required from their respective offices.

Circular, No. 5.

DATED, CALCUTTA, THE 27TH AUGUST, 1862.

Mr. Justice Trevor.

I am directed to request that you will be so good as to furnish the Court with a list of Moonsiffs in your district, distinguishing the Diploma-holders and those who have taken degrees at the University from Non-Diploma-holders; as well as those who are acquainted with the English language from those who are not.

Circular, No. 6.

DATED, CALCUTTA, THE 10TH SEPTEMBER, 1862.

Mr. Justice Trevor.

The Court having lately observed several instances in which Pleaders holding Junior Diplomas have been permitted to practise in the higher Courts, are pleased to point out that clause 3, Section 18, Regulation V. of 1831 applies only to vakeels who were employed before 1850, and does not apply to holders of Junior Diplomas under the rules of that year, as holders of Junior Diplomas can obtain the higher privileges of practising in the Courts of the Judge and Principal Sudder Ameen by passing the prescribed examination. The Court, therefore, direct that, in every case in which the rules have been infringed, the parties wrongly promoted be relegated to their proper Courts.

Circular, No. 7.

DATED, CALCUTTA, THE 19TH SEPTEMBER, 1862.

Mr. Justice Trevor.

The Court are pleased to forward the accompanying extract (paragraphs 5, 6, 7, and 10) from a letter, No. 833A, dated the 12th instant, from the Officiating Deputy Auditor and Accountant General to the Government of Bengal, together with the necessary forms, and to direct that in conformity therewith, estimates prepared

with the greatest possible accuracy shall be submitted, so as to reach this office on or before the 1st November next.

2nd. In the event of an officer finding it necessary to make any reference on the subject before submitting his estimate, he is requested to address the Officiating Deputy Auditor and Accountant General direct, in order to avoid delay.

3rd. If there is not any probability of receipts or disbursements under any particular heading of the form, it should be left blank.

4th. With reference to the 6th and 7th paragraphs of the annexed extract, the Court have, in consultation with the Board of Revenue, fixed the 1st proximo as the date from which all promotions should be ignored.

5th. The Court will not fail to bring to the notice of Government delay on the part of any officer in submitting his estimate, as herein directed, on or before 1st November next.

6th. In addition to the above general instructions which are intended for all officers subordinate to the Court, the estimates of the Judges of the Courts of Small Causes should be based on the monthly cost incurred during the current year, making due deduction for such articles, as furniture &c., which are not likely to be renewed during the year 1863-4.

7th. Copy of a letter, No. 864A, dated the 15th instant, from the Officiating Deputy Auditor General and of the form which was received therewith, are annexed specially for the Magisterial officers.

By order of the High Court.

EXTRACT (paragraphs 5, 6, 7, *and* 10*) from a letter, No.* 833*A*, *dated the* 12*th September*, 1862, *from the Officiating Deputy Auditor and Accountant General to the Government of Bengal.*

5th. The annexed memo. shews what was the actual expenditure on the above accounts during 1861-62, and a more

detailed statement of those charges will be forwarded to you in the course of this month. In the meantime I observe, that in the column 1863-64 the *scale* of expenditure of all fixed charges should be exhibited, savings being shewn as a credit per contra; thus, for example, the scale of a salary, say at Rs. 500 a month, would be 6000 Rs. for the year, and this must be estimated for each such appointment, irrespective of of what may have been the actual net expenditure in any past year.

6th. Some part of your departmental charges will consist of a proportion only of certain entire salaries, the remainder of which is chargeable to other services. A memo. containing information on this matter is appended for your guidance, and as much confusion arose last year from officers professedly estimating the due proportion of charge, but actually entering very different figures in their returns for the various Departments, I beg to recommend that all concerned should be specially advised of the proportion to be exhibited in their returns, and warned that, if discrepancies occur between their statements to you and those to the heads of other departments, they will be liable to the reprehension of Government.

7th. With this view, a date had better be fixed in communication with the Board of Revenue, after which *promotions* should be ignored. Thus, a Magistrate or Deputy Magistrate should be entered as of the grade in which he may stand on that date, since the increase to his salary will be accompanied by a corresponding decrease in another district. Of course a *new appointment* recommended must be entered without regard to this consideration.

10th. All material differences between the estimates for 1863-64 and 1862-63 should be carefully explained, any long and important observations being embodied in a separate report. The entries in column 1862-63 should be the Budget entries as originally sanctioned, no increase being admitted, unless allowed by subsequent orders of the Supreme Government.

No. 864A from the Officiating Deputy Auditor and Accountant General, Bengal, to the Registrar of the High Court, dated Fort William, the 15th September, 1862.

SIR,—In continuation of my No. 833A, dated 12th instant, I have the honor to request that you will also call for an estimate of the items shown in the accompanying Departmental form from Magisterial Officers of the Regulation and Non-Regulation Districts, and send in the consolidated return with your Law and Justice estimates. You need not have this form printed.

I have, &c.

F. *Estimates. Civil Services for the year ending 30th April,* 1864.

	Actual.	Estimate.	
	1861-62.	1862-63.	1863-64.
VII.—Superannuation and retired allowances and gratuities for charitable and other purposes, ...			
2. Gratuities and donations for charitable and other purposes, ...			
Maintenance of strangers and indigent persons,			
Diet to insane persons, ...			
Total F VII.			
IX.—MISCELLANEOUS.			
Conservancy.			
Clerks on Rs. 50 and upwards,...			
Ditto below Rs. 50, ...			
Overseers, ...			
Men employed in sinking dead bodies, &c., ...			
Lighting Streets, ...			
Watering Establishment, ...			
Repairs of Roads, Balustrades, &c.			
Working Steam Engine, ...			
Contingencies, ...			
Aqueduct Establishment.			
Establishment for sweeping Dhurrumsalas, ...			
Scavengers and Sweepers' Carts, ...			
Interring Paupers, ...			
Fire Engine Establishment in the Mofussil, ...			
Total F. IX. ...			

Budget Estimates, Revenues and Receipts, for the year ending 30th April, 1864.

Magistrate of

	Actual. 1861-62.	Estimate. 1862-63.	Estimate. 1863-64.	Remarks.
IX.—*Law and Justice.*				
Savings and refunded charges. ...				

Budget Estimates, Charges for the year ending 30th April, 1864.

Magistrate of

F. Civil Services.	Number. 1861-62.	Number. 1862-63.	Number. 1863-64.	1861-62. (Actual.)	1862-63. (Estimate.)	1863-64. (Estimate.)	Remarks.
III.—*Law and Justice.*							
Salaries and allowances, ...							
*Moiety of salary of Magistrate and Collector, at Rs. per mensem, ...							
*Ditto of Assistant, at Rs. per mensem, ...							
*Ditto of Joint, at Rs. per mensem, ...							
*Ditto of Uncovenanted Deputy Collector and Magistrate, at Rs. per mensem, ...							
†Salary of Uncovenanted Deputy Magistrate, at Rs. per mensem, ...							
Total, ...							
Establishment.							
Clerks, from Rs. to Rs. 250,...							
Ditto, from Rs. to Rs. 50,...							
Guard, ...							
Servants, ...							
Office Contingencies, ...							
Charges for serving criminal processes through other than the Police Agency, ...							
Total, ...							
*Moiety of Establishment under Uncovenanted Deputy Collector and Magistrate, ...							
Clerks, from Rs. to Rs. 50,...							
Servants, ...							
Office Contingencies, ...							
Total, ...							
Total F. III. carried over, ...							

* The remaining moiety is charged under B. II. Land Revenue.

† These are entirely engaged in Magistorial duties.

Budget Estimates, Charges for the year ending 30th April, 1864.

Magistrate of *(Continued.)*

	Number.						Remarks.
	1861-62.	1862-63.	1863-64.	1861-62. (Actual.)	1862-63. (Estimate.)	1863-64. (Estimate.)	
F. Civil Services.							
III.—*Law and Justice.*							
Brought forward, ...							
†Uncovenanted Deputy Magistrate's Establishment, ...							
Clerks, from Rs. to Rs. 50,...							
Servants, ...							
Office Contingencies, ...							
Total, ...							
Temporary Establishment under the Magistrate, ...							
Clerks, from Rs. to Rs. 50,...							
Servants, ...							
Total, ...							
*Moiety of temporary Establishment under Uncovenanted Deputy Collector and Magistrate,							
Clerks, from Rs. to Rs. 50,...							
Servants, ...							
Total, ...							
†Temporary Establishment under the Uncovenanted Deputy Magistrate, ...							
Clerks, from Rs. to Rs. 50,...							
Servants, ...							
Total, ...							
Total F. III. carried over, ...							

* The remaining moiety is charged under B. II. Land Revenue.
† These are entirely engaged in Magisterial duties.

Budget Estimates, Charges for the year ending 30th April, 1864.

Magistrate of *(Continued.)*

	Number.						Remarks.
	1861-62.	1862-63.	1863-64.	1861-62. (Actual.)	1862-63. (Estimate.)	1863-64. (Estimate.)	
F. Civil Services.							
III.—*Law and Justice.*							
Brought forward, ...							
Honorary Assistant Magistrate's Establishment, ...							
Clerks, from Rs. to Rs. 50,...							
Servants,...							
Office Contingencies, ...							
Total, ...							
Miscellaneous.							
Travelling allowance of Covenanted Officers when visiting the interior on duty, ...							
Ditto of Uncovenanted Officers and Amlahs, ...							
Printing charges, ...							
Stationery, ...							
Total, ...							
Total F. III., ...							

Circular, No. 8.

DATED, CALCUTTA, THE 16TH OCTOBER, 1862.

Mr. Justice Trevor.

The Court having reason to believe that notwithstanding Circular, No. 24, dated 30th June last, of the late Sudder Court, the provisions of Act X. of 1862, (the new stamp law) have not been thoroughly comprehended and conformed to by their subordinate judicial officers, are pleased to direct their especial attention to certain enactments of that law in order that the procedure of the lower Courts may be strictly in accordance therewith, and that the Government Revenue may not suffer from any misapprehension thereof.

2. Schedule A. should be carefully studied in connection with Sections 2 and 14, and the greatest care should be taken to ascertain before any Deeds, Instruments and Writings are accepted as evidence in any Court, that they are written on a stamp paper of the prescribed value, or that, as hereinafter pointed out, the proper penalty be paid.

3. Articles 28 to 32 of Schedule A, regarding the stamp required under certain specified circumstances for authenticated copies of Deeds, Instruments or Writings, should also be attentively read.

---

* CIRCULAR, No. 24.

DATED, CALCUTTA, THE 30TH JUNE, 1862.

Mr. Justice Raikes.

From an explanation given very generally in monthly statements regarding cases in arrear before the subordinate Mofussil Courts, viz., that decision of the said cases was delayed in consequence of the principal exhibit therein not having been returned by the Collector, to whom it was sent for impressment of a stamp of a sufficient value, the Court have reason to believe that very many of their Judicial Officers have paid no attention to the modification of Sections 130, 131 of Act VIII. of 1859, by Act XXXVI. of 1860, Section 13, Clauses IV, V, VI, VIII, which latter law has been lately re-enacted by Act X. of 1862, Section 17.

2. It will be observed that there is no necessity for sending any document to be stamped by the Collector, but that the Civil Court, in which there is filed an exhibit, written either on plain or insufficiently stamped paper, can, on payment of the penalties enacted by Section 15, Act X. of 1861, at once receive the said exhibit as evidence and proceed to try the suit with which it is connected.

3. It is perhaps needless to add, in conclusion. that after this notice, the Court will never receive any explanations of the nature above described.

4. Sections 15 and 17 of the Act should be read together, and it will be observed that the Civil Courts have power to act in any case in which a stamp *might* be impressed under Section 15 by the Collector; and, from a reference to that section, it will appear that the presiding officer should, before accepting an irregularly executed deed, satisfy himself that the omission or neglect to execute such Deed, Instrument or Writing on paper bearing the proper stamp, *did not arise from any intention to evade payment of the stamp duty or otherwise to defraud the Government.*

5. The different penalties which should be inflicted are laid down in Section 15, and should be duly entered, as prescribed by Section 17, Clause 2, in the monthly return to be furnished to the Collector of the district.

6. As Circular, No. 24 is of so recent date, it is perhaps unnecessary to remind judicial officers that transmission to the Stamp Office of any Deed, &c., for the impressment of a stamp thereon is unnecessary, as an endorsement bearing the signature of the presiding officer is sufficient, as far as any Civil Court is concerned.

7. Section 26 enacts a most important modification of the former law as regards refund of the value of the stamp on which a plaint may have been written, and should be most strictly observed, inasmuch as by it, under no circumstances can a plaintiff recover more than half the value of the stamp paper upon which his plaint was written, and such refund is to be granted only if application be made "reciting the substance of any agreement, compromise or satisfaction, in accordance with which a suit is adjusted and disposed of, * * * * * * * "*before the suit has been called up for settlement of issues, or in suits in which the summons to defendant has been for final disposal* (*i. e.* in cases of the Small Cause Court class) *before the hearing of the suit has commenced.*" Refund is, however, forbidden, if the adjustment between the parties be such as to require a decree to pass, and also in all appealed cases. In connection

with this point, however, Judges and Principal Sudder Ameens should read article 11 of Schedule B., note F.

8. Section 27 is also of great importance.

9. Schedule B. which should be read with section 30 of the Act, contains the following important articles, which should be strictly adhered to.

10. The rule prescribed in article 3 regarding certificates under Act XXVII. of 1860 must be regarded.

11. The different rates prescribed by articles 4 and 5 for copies of decrees and of judgments or orders, should be noticed, and also the rule regarding translations of the same, should they be required. In connection with this, the General Rule at the end of Schedule B. should be read, and also the exemption following article 5.

12. Article 6 also requires attention more especially in connection with Section 38, Act VIII. of 1859. Articles 7, 8, 9, 11 12 (the latter part) and 13 should likewise be carefully referred to.

13. The Court trust that in a matter of such importance to the Government, judicial officers will adhere most strictly to the provisions of Act X. of 1862, as briefly explained in the foregoing.*

Circulars, 9 and 10

Were never issued.

Circular, No. 11.

DATED, CALCUTTA, THE 18TH NOVEMBER, 1862.

Mr. Justice Raikes.

In modification of the late Sudder Court's Circular No. 27, of the 3rd September 1859, the Court are pleased to direct that every

* Act X. of 1862 has been very considerably altered by Act XXVI. of 1867, which must *now* be carefully studied.

Moonsiff should remit to the Treasury of the Collector, at least once at the commencement of each month, the money that may happen to be in deposit at the close of the preceding month; but Moonsiffs should, at the same time, be warned against ever retaining more money than is covered by the security given by their Nazirs. Whenever that sum is reached, a remittance should be at once made to the Government Treasury.

2. As several instances have recently occurred where this practice has not been observed, the Court wish to impress strongly upon Judges the necessity for rigidly insisting upon its observance and of reporting to the Court any instance in which the wishes of the Court in this respect may be disregarded.

(C. O. 27 of 1859 merely directed remittances to be forwarded "periodically, once or twice in each month only."—See also C. O. No. 9, dated 13th July, 1868.)

Circular, No. 12.

DATED, CALCUTTA, THE 19TH DECEMBER, 1862.

To Judges of Courts of Small Causes.

Mr. Justice Raikes.

The Court are pleased to require that, as soon as possible, after the termination of the current year, returns in the forms hereto annexed be submitted, showing the results of the working of each Court of Small Causes during 1862.

2. Particular attention should be directed to the preparation of Return No. 3, which is intended to exhibit only applications for execution of *decrees delivered during the year; e. g.*, execution for a decree passed in December, 1861 should not appear in this Statement, although the execution may have been made during 1862, as the decree does not relate to the year 1862.

3. For and after the month of January next, Statements 1 and 2 should be substituted for the Statement prescribed by the late Sudder Court's Resolution dated 1st July 1861, and should be submitted monthly

No. 1.

Statement of cases on the file of the Court of Small Causes of during 186

1	2	3	4	5	6	7	8	9	10	11	12	13	14
DESCRIPTION OF CASES,	Pending at the end.	Instituted during	Total.	For Plaintiff.			For Defendant.	Total of cases decided on trial.	Otherwise disposed of.	Total of every description disposed of.	Pending at the end.	How many of those last were pending above six weeks, cause of delay and date fixed for further hearing.	REMARKS
				On their merits.	Ex-parte.	Confession.	On their merits.						
1. Money claims whether on bond or other contract, .													
2. Rent of Houses, ..													
3. Claims for personal property, ...													
4. Claims for damagss,													
Total,.....													

The 186

Judge of the Small Cause Court.

No. 2.

Statement of Applications for Execution of Decrees on the file of the Court of Small Causes at during 186 .

1	2	3	4	5	6	7	8	9	10
Denomination of Court.	Pending at the end of	Applications filed during	Total.	Disposed of.	Struck off.	Total disposed of.	Pending at the end of	Of these last the number pending for six months and upwards	Cause of Delay.

No. 3.

Statement shewing in what manner and to what extent execution has been taken out in Small Causes decided in the Court at during the year 186 .

1	2	3	4	5	6	7	8	9	10	11	12
Description of cases.	No. decided during the year.	Number and value of the cases in which execution could have been taken out.		Number and value of the cases in which applications for execution of decrees have been preferred.		Number and value of the cases in which execution has been taken out.		Number and value of the cases in which applications were struck off on default or otherwise or withdrawn.		Number and value of the cases in which property has been attached in execution.		Number and value of the cases in which the person has been attached.		Amount realized.			Amount pending realization.			Number of applications pending execution beyond	
		Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Rupees.	Annas.	Pie.	Rupees.	Annas.	Pie.	3 months.	6 months.

REMARKS

Circular, No. 1.

DATED, 7TH JANUARY, 1863.

Forwards for the information and guidance of the Civil Authorities, a copy of a letter, No. 5768, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 31st December, 1862.

(Copy.)

SIR,—In continuation of the letter from this office, No. 3200, dated the 18th June, 1860, to the address of the late Sudder Court, I am directed to solicit that the High Court will have the goodness to include the name of Nawab Syud Asghur Ali Khan Bahadoor, of Chitpore, in the list of persons who have been exempted from personal attendance in the Courts under the provisions of Section 22, of Act VIII. of 1859.

Circular, No. 2.

DATED, 13TH JANUARY, 1863.

Forwards for the information of the Civil Authorities, a copy of a letter, No. 121, from the Registrar of the High Court of Judicature at Fort William in Bengal to the Judge of the Court of Small Causes at Baulcah.

(Copy.)

Mr. Justice Raikes.

SIR,—I am directed to acknowledge the receipt of your letter, No. 54, dated the 5th December last, enquiring whether a judgment debtor who has resisted a warrant issued from your Court should be proceeded with under Section 25, Regulation IV. 1793, or be tried by the Magistrate under Section 173 of the Penal Code.

In reply I am directed to state that any offence, that may be construed to be an offence provided for by the Penal Code, must under Section 2 of that Code be punishable under its provisions.

It follows that, if the offence alluded to by you in your letter under reply can be brought under the Section of the Code cited therein, it will be punishable in the manner provided for in that Section.

Circular, No. 3.

DATED, CALCUTTA, THE 21ST JANUARY, 1863.

Mr. Justice Raikes.

In continuation of their Circular,* No. 1407 A, dated the 17th ultimo, and with the view of carrying out the arrangement therein ordered strictly in accordance with Clause 8, Section 14, Regulation XXVI. of 1814, which the Court find is still unre-

---

* SIR,—I am directed to transmit for your information and guidance the annexed copy of a letter from Government, No. 5122, of the 8th instant, and to request that you will lose no time in giving effect to the arrangements contained therein, as you will perceive from para. 5, that it is the wish of the Lieutenant-Governor that they should come into effect from the 1st January next.

2. You will perceive that the orders of Government now circulated modify very considerably those contained in Circular Order, No. 12, dated 6th May, 1861, and you are accordingly requested to read these two letters together.

3. In giving effect to the sanction of the Lieutenant-Governor to the increase of the present allowance of stationery to 8 Rupees in the Moonsiff's Courts of your district, I am directed to inform you that it is expected by the Court and by Government, that this allowance will prove more than sufficient for the heaviest Chokeys, and you should therefore exercise care in seeing that this item of expenditure varies in proportion with the amount of business transacted in each Moonsiff's Court. In the present state of the files of most Moonsiffees, the Court anticipate that the maximum of 8 Rupees will be rarely attained.

4. Para. 3 of the Government letter hereto annexed, as you will perceive, relates to the Ministerial Establishment of the subordinate Judicial Courts, in which it is intended to raise the salaries of certain officers. To prevent the possibility of mistakes, a list is subjoined showing the salaries of the Ministerial Officers of the subordinate Courts of the several grades and the total cost of each.

Court of Principal Sudder Ameen.

1 Serishtadar, ... Rs.	50	0	0
1 Peshkar, ...	20	0	0
1 Nazir, ...	30	0	0
4 Mohurrirs, @ Rs. 10 each	40	0	0
2 Chuprassees, @ Rs. 5 each	10	0	0
Stationery, ...	15	0	0
Dufturry, ...	5	0	0
Rs.	170	0	0

pealed, the Court are pleased to direct that every Civil Judge in re-appointing his Nazir, shall take an *ikrarnamah* from him, stipulating that he will

Court of Sudder Ameen.

1 Serishtadar,	Rs.	25	0 0
1 Nazir,		25	0 0
4 Mohurrirs, @ Rs. 10 each		40	0 0
Stationery,		8	0 0
	Rs.	98	0 0

Court of Moonsiff.

Serishtadar,	Rs.	25	0 0
1 Nazir,		20	0 0
3 Mohurrirs, @ Rs. 8 each		24	0 0
Stationery,		8	0 0
	Rs.	77	0 0

5. To meet the additional expense incurred by these arrangements, it is the intention of Government that Meeran fees should be credited to Government instead of being received by Nazirs; and as the pay of these latter officers has been placed on a permanent and liberal footing, the Court do not apprehend that you will find any difficulty in obtaining the services of trustworthy and efficient officers to discharge these duties. A separate account under this heading should be opened with Collectors, and you should be careful in insisting, that, as a general rule, your subordinates should at the commencement of every month transmit to the Government Treasury whatever sums of money may happen to remain in the hands of their Nazirs at the end of the preceding month, but I am at the same time directed to remind you that you should particularly enjoin on all your subordinates that they should on no account permit the sum in deposit with the Nazir (including all kinds of money receipts) to exceed the amount of that Officer's security.

6. The Court request that until further orders you will submit quarterly statements of the receipts of Meeran fees, shewing the receipts of each Court separately.

Copy of letter No. 5122, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William the 8th December, 1862.

SIR,—I am directed to acknowledge the receipt of your letter No. 1079, dated the 12th ultimo, furnishing a Report on the working of the Revised Establishments sanctioned for the subordinate Civil Courts under the Government Resolution No. 868A, dated the 11th April, 1861.

2. The Lieutenant-Governor is gratified to observe that, under the new system, work has been performed with expedition and with greater satisfaction to suitors than formerly, and he approves of the Court's recommendation that the present allowance for stationery in the Moonsiffs' Courts, which has been found to be insufficient, should be raised to 8 Rupees per mensem in those Chowkies where the increase is necessary.

3. The Court's proposal that the offices of Serishtadar and Nazir in Moonsiff's Courts, which are now united on a monthly salary of Rupees 12,

make no claim against Government for any Meeran fees receivable under the law at present in excess of the fixed salary paid to him.

All *ikrarnamahs* should be transmitted and filed in the Office of the Zillah Judge.

(Section 14, *Regulation XXVI.* 1814 *has been since repealed by S.* 1, *Act V. (B. C.) of* 1863, *in so far as it relates to the provinces subject to the Government of Bengal.)*

Circular, No. 4.

DATED, CALCUTTA, THE 6TH FEBRUARY, 1863.

Mr. Justice Raikes.

The Court request that statements in the form hereto annexed, may be submitted to them as soon as possible.

Statements A and B should shew the information regarding stamp fees and the expense to Government for each description of Court separately.

---

exclusive of Meeran fees, should be separated, the Nazir and Serishtadar being paid by fixed salaries, and the Meeran fees being credited to Government, is also approved. The Lieut.-Governor is further pleased to approve of the Court's recommendation that the plan of crediting the Meeran fees to Government, and giving the Nazir a higher fixed salary in lieu of the fees thus appropriated should be extended to all subordinate Civil Courts. The following scale of salaries for the Nazirs of the different Courts is accordingly sanctioned:—

Principal Sudder Ameen's Nazir, ...Rs.	30
Sudder Ameen's Nazir, ...	25
Moonsiff's Nazir, ...	20

4. The Lieutenant-Governor also sanctions the salary of the Serishtadar of the Moonsiff being raised to Rupees 25 per mensem.

5. These arrangements will take effect from the 1st of January, 1863, and entail an additional expense of Rupees 7,324 per mensem, and not Rupees 7,264 as shewn (apparently by a clerical error) in the Statement given at the foot of your letter under acknowledgment.

6. The Court will be so good as to include the charge in the next year's Budget, and an application has this day been made to the Government of India for a special grant of Rupees 21,072 to meet the expense for the three months of the current Budget year, the set-off of Rupees 42,026 against this extra charge, which the Court think can be assumed as a fair average of receipts for three months on account of the Meeran fees to be credited to Government, being exhibited on the receipt side of the Budget.

A.

Return exhibiting the Stamp Receipts in the Civil Court of the different grades in Zillah

	Value of stamps filed.	Amount refunded under Act X. of 1862, Section	
In the Court of the Judge, ...			
„ Additional Judge, ...			
„ Principal Sudder Ameen, ...			
„ Addl. Principal Sudder Ameen,			
„ Sudder Ameen, ...			
„ Moonsiff, ...			

B.

Cost to Government of the Civil Courts of the different grades of Zillah

	Salary of Presiding Officers.	Establishment.	Remarks.*
Judge, ...			
Additional Judge,...			
Principal Sudder Ameen,... ...			
Addl. Principal Sudder Ameen, ...			
Sudder Ameen, ...			
Moonsiffs, ...			

C.

Statements of the Ameen's Fund in Zillah

No. of Ameens.	Their Salary.	Contingent expenses, if any.	Total amount disbursed.	Receipts.
Balance, ...				

* In this it should be stated how many officers are of the 1st or 2nd class of Principal Sudder Ameen or Moonsiff, and how many officers of every description were holding only acting appointment, and for what portions of the year.

Circular, No. 5.

DATED, 6TH FEBRUARY, 1863.

The Chief Justice.

I am directed to circulate a copy of the following notification for the information of all judicial and revenue officers, and to state that the Probate and Certificates, ordered to be brought in and cancelled, are still outstanding.

The Court have issued this notification, in order that no force or effect shall hereafter be given to the said Probate or Certificates if produced.

You are requested to cause this notification to be communicated to all judicial and revenue officers under your control, and to be publicly notified in their several courts.

NOTIFICATION.

High Court of Judicature at Fort William in Bengal.

It is hereby notified that by a sentence of this Court in its testamentary and intestate jurisdiction, dated the 12th January, 1863, the Court has pronounced against the force and validity of the pretended last Will and Testament of Ramchunder Paul Chowdry, late a Hindoo inhabitant of Ranaghat, in the district of Nuddea, and a Zemindar deceased, in the Bengali language and character, bearing date the 10th day of Bhadur in the Bengali year 1264, corresponding with the 25th day of August in the Christian year 1857, and that the Probate of the said Will which was granted to Saumchunder Paul Chowdry, the sole executor therein named, on the 11th day of September, 1857, and all certificates of Probate having been granted of the said Will to the said Saumchunder Paul Chowdry, have been ordered to be brought into the Registry of the Court and cancelled. *Dated this 6th day of February*, 1863.

Circular, No. 6.

DATED, CALCUTTA, THE 11TH FEBRUARY, 1863.

The statements called for by Circular, No. 4, dated the 6th instant, should be for the past year.

Circular, No. 7.

DATED THE 21ST FEBRUARY, 1863.

Forwards copies of the following correspondence for information and guidance.

Letter No. 1218, *from the Under-Secretary to the Government of Bengal to the Commissioner of the Bhaugulpore Division, dated Fort William, the* 16*th February,* 1863.

SIR,—I am directed to acknowledge the receipt of your letter No. 200B, of the 22nd ultimo, and to inform you in reply that, in compliance with your recommendation, the Lieutenant-Governor is pleased to authorize the restoration to Rajah Leelanund Sing of Purneah of the privilege of exemption from personal attendance in the Civil Courts, which was withdrawn from him under Orders No. 1651A., dated the 27th June, 1861, for his misconduct.

2. The High Court will accordingly be desired to include the name of the Rajah in the list of persons who have been exempted from personal attendance in the Civil Courts.

No. 1219, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the* 16*th February,* 1863.

SIR,—With reference to the endorsement No. 1652, dated the 27th June, from this Office, I am directed to forward to you the accompanying copy of a letter this day addressed to the Commissioner of Bhaugulpore, and to solicit that the Court will be so good as to issue the necessary instructions to the subordinate Courts to include the name of Rajah Leelanund Sing of Purneah in the list of persons who have been exempted from personal attendance in the Civil Courts.

Circular, No. 8.

DATED, THE 14TH APRIL, 1863.

Forwards in continuation of Circular No. 1, *of 8th January,* 1863, *a copy of a letter, No.* 2491, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 6th April,* 1863, *with a request that the Statistical Return therein called for may be submitted without delay.*

SIR,—I am directed by the Lieutenant-Governor to transmit herewith a copy of a further Resolution, No. 1948, dated the 23rd ultimo, recorded by the Government of India, in the Home Department, and to request that the Court will be so good as, when forwarding the report regarding the practical working of the Penal Code in respect to the suppression of corporal punishment asked for in my predecessor's letter No. 5829 of the 31st December last, to add a Statistical Return of the nature referred to in the present Resolution.

EXTRACT from the Proceedings of the Hon'ble the President in Council, in the Home Department, No. 1948, *under date the 23rd March,* 1863.

Read the following extract of a letter from the Inspector-General of Police in India, No. 100, dated 26th November, 1862, reporting on Mr. Yule's scheme for the reduction of the Police in Oude :—

Para. 16.—Before passing on to the Municipal Police, I would ask permission to say a few words on the subject of Jails generally. Mr. Yule has stated in the 7th paragraph of his letter that it must be noted since the introduction of the new Penal Code that the number of prisoners has been steadily increasing. I fear this is the case to an alarming extent all over India.

Ordered,—That the above extract be forwarded, in continuation of Resolution No. 7312, dated 20th December last, to the Governments of Madras, Bombay, Bengal, North-Western Provinces, and, through the Foreign Department, to the Government of Punjab, and to the Chief Commissioners of Oude, Central Provinces, and British Burmah, with a request that, together with the

Report therein called for, a Statistical Return may be submitted, shewing, in tabular form, the number of convicts sentenced in each month of the past year to imprisonment for offences, which, up to the introduction of the Penal Code, were punishable by flogging.

Circular, No. 9.

DATED, 11TH MARCH, 1863.

Mr. Justice Raikes.

It having been brought to the notice of the High Court that it is still customary in Mofussil Courts to retain the Register prescribed by Regulation XVIII. of 1793, Section 4—the High Court are pleased to direct that this Register be discontinued, inasmuch as the law directing its use has been virtually repealed by Act VIII. of 1859, Section 38, which has substituted for it a Register in the form given in schedule A. The Court do not consider the addition of an extra column, to show the actual number of papers comprising the record of each case, to be necessary, as information on this point can be obtained by reference to the fly leaf attached to each record, in accordance with the late Sudder Court's Circular, No. 39,* of the 24th October 1861.

---

* CIRCULAR, No. 39.

DATED, CALCUTTA, THE 24TH OCTOBER, 1861.

It has been represented to the Court that owing to the fly leaf that used to be attached to the record of pending suits having been discontinued,* some inconvenience has, in one or two instances, been experienced when it has been alleged that documents were missing from a record, there being no means of knowing whether they ever were actually placed with it or not, I am therefore directed to forward for general adoption in the Civil Courts of your District, the accompanying form of fly leaf (which is to be used either in English or vernacular, according to circumstances) together with an Extract† from a letter from the Judge of Nuddea, conveying suggestions as to the use that should be made of it.

* Vide Circular No. 170, dated September 4th, 1860.

† Para. 4.

Circular, No. 10.

DATED, CALCUTTA, THE 19TH MARCH, 1863.

Mr. Justice Raikes.

Much inconvenience and delay having been occasioned owing, in some instances, to the submission of a vernacular translation of an English Decision, and, in others, to the omission to submit the decision in any form whatsoever with the records of cases appealed to the High Court, all local Judges are requested to arrange for the due submission *in all instances* of the original decision or an authenticated copy of the same, in the language in which it may have been recorded.

ZILLAH

Court of the Moonsiff of

List of the Papers of case No. of 186

Execution of decree filo.

Ramchunder Doss, Plaintiff or Petitioner.

Ahmud Ali and others, Defendants or Opposite party.

No.	Nature of Paper.	Date of filing.	Remarks.
1	Application to execute.	21st March 1861.	
2	Decree of this Court, dated 29th December, 1860.	0	Returned 18th July, 1861.
3	Petition of *Ahmud Ali*, objecting.	1st April	
4	Receipt in full, dated 5th January, 1861.	0	Penalty of 23 Rs. paid herewith.

Extract, paragraph 4, from a letter from the Judge of Nuddea, No. 267, dated 24th September, 1861.

(4.) I would suggest the adoption of a printed or lithographed form with which every Court should be provided in amply sufficient numbers; an example of such a form is annexed. It should be the duty of the Serishtadar on the very institution of a suit to cause the heading of such a form to be filled up and to place it at once with the plaint and lay it before the presiding Judge for his signature, and the Officer in charge of the suits should enter in this index leaf each paper as it is filed or ordered to be filed with the nuthee, marking in such paper its corresponding number.

Circular, No. 11.

DATED, CALCUTTA, THE 23RD MARCH, 1863.

To Judges of Courts of Small Causes.

I am directed to request that in future you will be so good as to submit your Contingent Bills in duplicate.

Circular, No. 12.

DATED, CALCUTTA, THE 13TH APRIL, 1863.

To Judges of Courts of Small Causes.

Mr Justice Raikes.

I am directed to request that you will be so good as to submit, as soon as possible, Statements for the past year drawn up in the forms A and B. annexed hereto.

A.

Return exhibiting the Stamp Receipts in the Civil Courts of the different grades in Zillah

	Value of Stamps filed.	Amount refunded under Act X of 1862, Section	Remarks.

B.

Cost to Government of the Civil Courts of the different grades in Zillah

	Salary of Presiding Officers.	Establishment.	Remarks.

Circular, No. 13.

DATED THE 14TH APRIL, 1863.

Forwards, for the information and guidance of the Civil and Criminal Authorities, a copy of a Resolution (dated the 14th February, 1863, No. 476 G.) of the Government of India in the Financial Department.

RESOLUTION.—The Hon'ble the President in Council observes that the increase to the salary of the Professor of Mathematics in the Civil Engineering College can commence only from the date upon which it was sanctioned by the Supreme Government; that, besides the general objection to retrospective payments, it is especially necessary jealously to guard the observance of the rule *that no increase of establishment or addition to salary is to be inserted in the annual estimates without a previous specific sanction given upon a consideration of the merits of the individual case;* and that the Government of Bengal ought not to have departed from this indispensable rule in the present case.

Circular, No. 14.

No Civil Circular Order bearing this number was issued.

Circular, No. 15.

DATED THE 22ND APRIL, 1863.

Forwards, for the information of all Civil Judges, a copy of a letter No. 1080, from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Judge of Dacca, dated Calcutta, the 22nd April, 1863.

The Chief Justice.
Mr. Justice Raikes.
" " Trevor.

In reply to your letter No. 405, of the 31st July last, I am directed to inform you that the Court have been

pleased to determine that no Judicial Officer shall be allowed to practise as a Pleader during the term of any leave that he may obtain from the Court.

Circular, No. 16.

DATED THE 27TH MAY, 1863.

The Chief Justice.
Mr. Justice Raikes.
" " Bayley.

The Court are pleased to circulate, for the information and guidance of all Civil Authorities, the following Circular recently issued by the Sudder Court of Agra:—

"The Court are pleased to call the attention of all Civil "Authorities to Sections 16 to 19, Act XXIII. of 1861, and "Sections 171 and 173 of Act XXV. of 1861, which lay down "the procedure to be adopted for the commitment for trial, "before the Court of Session, of persons who may appear to "have been guilty of the offences of 'giving false evidence' "and 'forgery' or any other of the offences enumerated in "Sections 169 and 170 of the Code of Criminal Procedure, in "any cases tried before them."

2. "The provisions of the two Acts, which must be read "together, as laid down in the Sections above quoted, are, the "Court observe, identical in their requirements."

3. "It will be observed that the Courts, before whom any "of the offences, enumerated in the Sections above referred to, "have been committed, have the option of following one of "two courses:—They may either send the case for investigation "to any Magistrate having the power to try or commit for "trial under Section 171, after themselves making such preli- "minary enquiry as may be necessary; or, instead of sending "the case for investigation to a Magistrate, they may complete "the investigation themselves and commit or hold to bail the "accused person to take his trial before the Court of Session "under Section 173.

4. "When the latter mode of procedure is followed, the "Courts, in completing the investigation preliminary to commit- "ment, should strictly observe the rules laid down in Sections "194, 202, 205, 207, and 227 of the Code of Criminal Procedure, "with regard to the preliminary enquiry to be made in cases "triable by the Court of Session.

5. "These are as follows:—Section 194.—'The complainant "and the witnesses for the prosecution shall be examined in "the presence of the accused person or of his agent when his "personal attendance is dispensed with, and he appears by "agent. The accused or his agent shall be permitted to cross- "examine the complainant and his witnesses.'

6. "Section 202.—'It shall be in the discretion of the "Magistrate, from time to time, at any stage of the enquiry, "to examine the accused person, and to put such questions "to him as he may consider necessary. It shall be in the "option of the accused person to answer such questions.'

7. "Section 205.—'The examination of the accused person, "including every question put to him, and every answer given "by him, shall be recorded in full, and shall be shown or read "to him, and he shall be at liberty to explain or add to his "answers; and when the whole is made conformable to what "he declares is the truth, the examination shall be attested by "the signature of the Magistrate, who shall certify, under his "own hand, that it was taken in his presence and in his hear- "ing, and contains accurately the whole of the statement made "by the accused person.'

8. "Section 207.—'It shall be at the discretion of the "Magistrate to summon any witness who may be offered to "answer or disprove the evidence against him.'

9. "Section 227.—'As soon as the charge on which the "accused person is to be tried, has been prepared as hereinafter "directed, it shall be read to him and a copy or translation "of it shall be furnished to him, if he require it. The accused "person shall be required at once to give in orally or in

"writing a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court "of Sessions or Supreme (now High) Court. It shall be "in the discretion of the Magistrate to allow the accused "person to give in any further list of witnesses at a subsequent "time. The Magistrate shall receive the list, and summon "the witnesses to appear before the Court before which the "accused person is to be tried. The provisions of Sections 187, "188, 189, 190, 191, and 192, so far as they relate to the "attendance of witnesses, shall be applicable to witnesses named by the accused in the list above mentioned."

10. The careful observance of the rules contained in the above quoted Sections is enjoined on all Civil Courts making commitments as necessary to the complete investigation required by law as a preliminary to commitment.

Circular, No. 17.

DATED THE 2ND JUNE, 1863.

Forwards for the information and guidance of the Civil and Criminal authorities a copy of a letter, No. 1939, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the* 12*th May,* 1863.

With the view of obviating delay in the submission to this Office by the Civil Pay-Master of the Quarterly Statements of Pensions and Gratuities, I am directed to request that the High Court will be good enough to issue instructions for the submission of all future applications of this nature in the accompanying Form, which embodies all the information needed for those Returns.

Application for Gratuity on behalf of *on the Establishment of*

Name of Applicant.	Designation & place of employment.	Character.	Specification of the period of service.	Salary at the time of discharge.	Amount of Gratuity recommended.	Remarks or explanation.	Remarks by the Civil Pay Master.	Orders by the Government of Bengal.
			Y. M. D.	Rs. As. P.	Rs. As. P.			

Circular, No. 18.

DATED THE 23RD JUNE, 1863.

Forwards, for the information and guidance of Judges of Courts of Small Causes, a copy of a letter No. 4475, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated, Fort William, the* 10*th June*, 1863.

(Copy.)

I am directed to acknowledge the receipt of your letter No. 1254, dated the 19th ultimo, and of its enclosure, and in reply to state that the Lieutenant-Governor concurs in the Court's recommendation for introducing into all the Mofussil Small Cause Courts the arrangement adopted by Mr. Bell, Judge of the Principal Small Cause Court of Jessore, in regard to Meeran Fees and the remuneration of Nazirs. The Lieutenant-Governor accordingly sanctions the pay of the Nazirs of all the Small Cause Courts being raised from Rupees 14 to 60 a month, all Meeran Fees paid in by suitors at such Courts being carried to the credit of Government instead of being appropriated by the Nazirs as heretofore.

2. His Honor also sanctions the entertainment by each Court of another Officer to be called the Sale Ameen on a salary of Rupees 14 per mensem, with a commission of one anna in the Rupee on all sales effected by him.

3. The Court will be so good as to cause these arrangements to be duly carried out and to furnish the Lieutenant-Governor with a Tabular Statement shewing the monthly increase in the cost of the Establishment, which they involve, as well as the probable monthly amount of Meeran Fees that will be collected.

Circular, No. 19.

DATED THE 8TH JULY, 1863.

Forwards to the Civil and Criminal Authorities in the Lower and Extra-Regulation Provinces for their information and guidance a copy of a Resolution, No. 2149, *dated* 26*th May*, 1863, *of the Government of India, Financial Department.*

Resolution.—The Hon'ble the President in Council observes that in all cases where the Establishment of Deputy Collectors, Principal Sudder Ameens, Sudder Ameens, and Moonsiffs are paid not from an office or contract allowance, but from a sanctioned scale of charge which has been fixed by Government both as to the number of men and the pay of each, the persons on these Establishments are eligible to pension under the general rules if they belong to the classes, whether Nazirs, Mohurirs, or the like, on more than (10) ten Rupees a month, who are eligible to pension under those rules.

This decision is equally applicable to all other permanent Civil Establishments once paid from a contract allowance, which are now regulated by a scale of charge that, in all details of numbers and rates, has been fixed by Government.

Service rendered on an Establishment, which is paid or rendered at a time when it was paid from a contract allowance, does not count towards pension.

Circular, No. 20.

DATED, CALCUTTA, THE 25TH JULY, 1863.

To all Judges of Small Cause Courts.

Mr. Justice Raikes.

With reference to Section 2, Act V. of 1863, (Bengal Council) I am directed to request, that you will submit, with the least possible delay, a Statement shewing the number of peons requiring to be employed in your Court, for the service and execu-

tion of processes. The Statement should also shew the number employed by the Nazirs under the old system and the amount of Tullubana and Meeran fees realized in each Court, during the past year. It should further exhibit the salary of the Nazir before, and his salary after, Circular Order, No. 1407A., dated 17th December last, came into effect. These particulars should be furnished in a Tabular Statement of the accompanying form.

2. You are also requested to state in the penultimate column the rates you would propose to charge as the cost of serving and executing process, under Section 7, Act V. of 1863, (B. C.) The Court would be glad at the same time with your opinion as to whether the remuneration to peons under Section 6 should be by *fees* or by *fixed salaries*.

3. I am to add that the Quarterly Returns of Meeran fees enjoined by para. 6 of Circular Order 1407A., dated 17th December last, may be discontinued.

Form of Statement accompanying Circular Order, No. 20, dated 25th July, 1863.

1	2	3	4	5		6	7	8
Name of Court.	Number of registered peons under old system.	Amount of *Tullubana* levied in 1862.	Amount of *Meeran* fees.	Nazir's Salary.		Ratios Judge would propose under Section 7, Act V. of 1863, B. C.	Number of peons *required* to be employed, and reasons for thinking that a similar number will not suffice.	
				Under old system.	Under present system.			
Judges, ...			N. B.—This column would properly shew *one-fourth* of the amount in the preceding column: vide Section 14, Clause 8 of Regulation XXVI. of 1814, and Act XIV. of 1845.		In the case of Small Cause Courts the "present system" means the system sanctioned by the Orders of Government, circulated by the High Court's Memo. No. 18, dated 23rd June, 1863.			
P. S. Ameens, ...								
Sudder Ameens,								
Moonsiffs of ...								
Moonsiffs of ...								
&c. &c.								

Circular, No. 21.

DATED, CALCUTTA, THE 27TH JULY, 1863.

Mr. Justice Raikes.

The Court, having recently had brought to their notice an instance of a Registry Office in a district under them having been grossly neglected for some considerable time, are hereby pleased to direct all Zillah Judges and Judicial Commissioners in Bengal and the Extra-Regulation Provinces to visit all such Offices under their control once or twice a year and to ascertain themselves that all the necessary books and registers are kept up with proper exactness and regularity.

(This is superseded by the operation of the new Registration Act XX. of 1866.)

Circular, No. 22.

DATED, CALCUTTA, THE 28TH JULY, 1863.

Mr. Justice Raikes.

I am directed to request that you will be so good as to forward for the information of the Court within a fortnight of receipt of this, an estimate shewing the probable cost for employing the new Police as Escorts of money sent from the Courts in the interior of your District to your or the Collector's Treasury at the Sudder Station during the current Financial year.

(See in continuation C. O. No. 27, dated 1st October, 1863, and C. O. No. 9, dated 10th March, 1864.)

Circular, No. 23.

DATED THE 28TH JULY, 1863.

Forwards, for the information and guidance of the Civil and Criminal Authorities, a copy of a Minute by two Judges of the High Court.

(Copy.)

It appears to the Court that the new laws enacted with great care and labour by the Legislature are wholly useless if no atten-

tion is paid to them by the Native Judges. In particular, the mode of taking evidence seems to be still in the generality of cases loose and unsatisfactory in the extreme. No reform whatever has been made in accordance with the Code.

Section 172 of the Code of Civil Procedure requires the Judge "as the examination of each witness proceeds, to make a memo-"randum of the substance of what such witness deposes, and "such memorandum shall be written and signed by the Judge "with his own hand, &c., &c." The Court look on a compliance with this provision as the only safeguard that the evidence is really taken *vivâ voce* before the Judge, as required by law, and not by an irresponsible and incompetent Mohurrir according to the old and, they fear, still continuing practice. The Court hope that European Officers generally act up to the law, but their impression is, that most of the Native Officers utterly disregard it. Nothing can be worse than the evidence taken by them.

To see how far the Judge made a reliable and real Memo. of the substance of the evidence as it proceeded, the Court happened to ask for the notes of the evidence in a particular case decided by Nusseeroodeen Mahomed, Principal Sudder Ameen of Tirhoot. It was a case solely dependent on the evidence, in which there must have been gross and rank perjury and forgery on one side or other, and in which they are necessarily compelled to rely almost entirely on the finding of the Judge who had the witnesses before him. The Principal Sudder Ameen's original notes are a disgraceful farce. It strikes the Court that a form is made out by another hand, a Mohurrir no doubt, and a word or two filled in afterwards by the Principal Sudder Ameen by way of literal compliance with the Law. The Court do not mean to say that this Principal Sudder Ameen is singular in his conduct. They believe that it is the common and ordinary practice to disregard entirely the rules prescribed by law for taking evidence. Certainly the depositions are seldom such as would be called evidence in any civilised Court of Justice in the world. But if the practice is common, it is the more necessary

that something should be done to put a stop to it, if the Court would have any improvement whatever in the administration of justice. The Court, therefore, direct that a copy of this minute be forwarded with the original notes of evidence to the district Judge for communication to the Principal Sudder Ameen, and a copy of the minute to all officers employed to take evidence.

(Signed) F. B. KEMP.

July 20th, 1863. „ G. CAMPBELL.

Circular, No. 24.

DATED, CALCUTTA, THE 31ST JULY, 1863.

Mr. Justice Raikes.

In continuation of the 3rd para. of Circular Order, No. 23, dated the 30th June, 1862, which permitted the remittance of *tullubana* from a Civil Court in one District to a Civil Court in another by means of Postage Stamps, *if no preferable mode of remittance suggested itself*, I am directed to point out that a preferable mode has since appeared in the MONEY ORDER agency notified by the Civil Pay Master on the 1st October last.* The Court request accordingly that all remittances of tullubana by Civil Courts, from one District to another, be made by means of Money Orders, whenever it is practicable to do so.

* Vide page 3340, *Calcutta Gazette*, dated 1st October, 1862.

2. When this is not practicable, Postage Stamps may be used; but Stamps of sufficient value should be sent to cover the discount of 2 pice on the Rupee, to which purchasers of quantities worth five Rupees or more are entitled at the Collectorates.

Circular, No. 25.

DATED, CALCUTTA, THE 21ST SEPTEMBER, 1863.

Mr. Justice Raikes,
„ „ Jackson, (L. S.)

The Court having observed that a considerable proportion of the notices issued from this office under Section 345 of the Civil Procedure

Code, are returned unserved for default of deposit by the appellant of the usual tullubana fees; and it having been frequently represented that the default has been owing to the appellant not being apprised of their issue, all Civil Judges are informed that a Memo. in the form annexed will in future be issued by the Deputy Registrar (or such other officer as the Court may appoint,) to the appellant immediately upon presentation of the petition of appeal. The appellant or his agent will be entitled on presenting this Memo. to deposit in the Court against whose decision the appeal is preferred, the requisite amount of tullubana, and to obtain a receipt for that amount. It will then be the duty of the Lower Court to issue the process in such cases immediately on its being received from this office.

Memo. of appeal filed in the High Court on the of 186 .

Number & value of Appeal.	Name of Parties.	No. and date of decision appealed against.	Designation of deciding Officer & District.
	Appellant, *versus* Respondent.		

Circular, No. 26.

DATED, CALCUTTA, THE 19TH SEPTEMBER, 1863.

Mr. Justice Raikes.

The Court are pleased to forward the accompanying Extract, paragraphs 5 to 23, from a Resolution of the Government of India in the Financial Department, No. 4551, dated the 18th instant, together with the necessary forms, and to direct that in conformity therewith, Estimates prepared with the greatest possible accuracy shall be submitted so as to reach this Office on or before the 1st November next.

2nd. In the event of an Officer finding it necessary to make any reference on the subject before submitting his Estimate, he is requested to address the

Officiating Deputy Auditor and Accountant General direct in order to avoid delay.

3rd. The Court will not fail to bring to the notice of Government, delay on the part of any Officer in submitting his Estimate as herein directed.

EXTRACT, paragraphs 5 to 23, from a Resolution of the Government of India in the Financial Department, No. 4551, dated the 18th September, 1863

5. In framing the Budget Estimate, the following Rules should be strictly observed.

6. The Revenues and Receipts which come under the Budget classification, estimated to be received within the year, should appear as the Income of the year, and those only.

7. The Disbursements which come under the Budget classification, estimated to be paid within the year, should, in like manner, appear as the expenditure of the year, and those only.

8. Both Receipts and Disbursements should include arrears of past years, estimated to be received or paid within the ensuing year.

9. The full sanctioned scale, for all fixed charges, payable within the year, should be provided, as sufficient for all ordinary payments of current and past year's charges, including acting allowances.

10. The Government of India will receive the Budget estimates from the several Local Governments in the full belief that they contain, in respect of Salaries, Establishments, and Allowances of a fixed character, provision only for charges fully and formally sanctioned in the Financial Department of the Government of India.

11. It is, therefore, incumbent upon the Treasury Officers, Heads of Departments and Officers of Account, to guard carefully against the inclusion of any unauthorized expenditure.

12. The Local Governments should obtain the necessary sanction to all administrative changes or reforms involving alterations in the scale of expenditure, some time before the

preparation of the Budget Estimate, so as to enable the Deputy Auditors and Accountants General to make provision for them in their respective Estimates.

13. In regard to unfixed or contingent charges, the estimates should, as a general rule, provide for the average actual expenditure of the last three years. If less will be required, the reduction should be made. If more, a full explanation must be furnished in justification. There should be no reserves irrespective of the necessary provision for contingent charges.

14. In no case should *net* Receipts or *net* Charges appear in the Budget Estimate, but the whole of the receipts should be exhibited to credit, and the whole of the charges to debit.

15. The expected cost of stores from England should not be included in the body of the Estimate, but should be shewn in a separate note at the foot of each Departmental Abstract.

16. For stores in stock, the cost of which has already been charged against the Revenues of former years, no fresh charge should be made against Departments.

17. Stores to be purchased in India within the year should be estimated for by the Departments requiring them.

18. The total cost of all Public Establishments should be exhibited as charges of the Departments for which they are primarily employed, except in cases in which a contrary course *i. e.*, a division of the cost between departments has been specifically directed.

19. The Budget Estimate should be submitted on paper of Printing Demy Folio size, and, if not printed, should be clearly and legibly written, more especially the figures, which should *range* and be properly pointed.

20. Any amendments proposed by the Local Government should be exhibited in the separate column provided for the purpose, leaving the figures of the Deputy Auditor and Accountant General intact.

21. No erasures should, on any account be made, but when alterations are necessary, they should be effected by drawing a

single line through the cancelled matter, the new matter being inscribed above.

22. If the Budget Estimate is carefully prepared according to the preceding instructions, it may be at once accepted by the Financial Department and become the rule for the expenditure of the ensuing year, *from the first*, without the long delays which have hitherto arisen from the irregular construction of the Local Estimates, the insertion of unsanctioned items, and the consequent necessity for subsequent revision.

23. Under this system, the observance of which will be insisted on, there will be no impediment to the immediate publication of the grants in what have heretofore been called the X. Y. Z. Statements.

Circular, No. 27.

DATED, CALCUTTA, THE 1ST OCTOBER, 1863.

To the Judges of all Zillahs except *Midnapore, Rungpore, Dacca, Bhaugulpore, Rajshahye, Hooghly, Backergunge, East Burdwan and Nuddea.*

Mr. Justice Raikes.

As most of the returns to Circular No. 22, dated the 28th July last, have been so inaccurately, or so imperfectly prepared as to render the information they afford of little use for the purpose for which it was called for by the Lieut.-Governor, I am directed by the Court to request you will be so good as to furnish fresh returns in the form annexed to this letter.

2. His Honor desired to have an estimate of the probable cost, for the current financial year, of employing the new Civil Police in escorting money from the Moonsiff's Courts in the mofussil to the Sudder Station. As the Civil Police are bound* to charge to any Department employing them, "the actual pay of the grades furnished, with an additional charge of 10 per cent. on the amount of the Bill towards the expense of European supervision, cost of arms and accoutrements, clothing, &c.," it is obvious that an accurate estimate of the nature now called for, cannot be formed without ascertaining the *rates* at which the Police are paid, and the *grades* which will be required for the escort duty in contemplation.

* Vide Rules 36 & 37 of Govt Resolution, dated 22nd September, 1862, Calcutta Gazette, pp. 3285 to 3292.

These items of information, therefore, should be obtained from the District Superintendent or Assistant District Superintendent of Police by each Judge now addressed, who should not omit from his return the additional 10 per cent. alluded to by the Rules.

3. Where the Judge sees no necessity for employing the new Police, on the ground that the duty of escort has been hitherto performed by existing agency, such as the peons of the Courts, this fact and the Judge's view should be mentioned in the column of remarks. Travelling charges or Railway hire need not be taken into account as the return called for is simply intended to shew the charge for *escort* duty. Where the District Superintendent of Police is of opinion, as in Jessore, that the new Police could bring in the small amounts remitted without any charge at all, as was done by the old Police, the Judge will enter a remark to that effect in the last column.

4. In conclusion, I am to point out that no covering letter need be sent, the tabular form, if properly filled up, being calculated to provide all the requisite information.

Tabular form accompanying Circular Order, No. 27, dated, 1st October, 1863.

Name of Moonsiffee from which remittance is to be sent.	Name of Station to which remittance is to be sent.	Grade of Police to be employed.	Number of Officers in each escort.	Cost of each escort.	Number of escorts in one year.	Total cost for twelve months.	Charge under former system.	Excess or diminution of expense involved in the proposed charge.	Remarks.
		Inspector, Head Constable, or Constable; generally Constables only.	The strength of the escort will depend on the amount of the remittance.	This column will of course be filled up with reference to the daily rate of regular pay drawn by the Officers employed, and the number of days spent in the duty.	This will naturally depend on the number of remittances to be sent.				

Circular, No. 28.

DATED, CALCUTTA, THE 6TH OCTOBER, 1863.

The Chief Justice.
Mr. Justice Raikes.
Mr. Justice Bayley.
Mr. Justice Seton-Karr.
Mr. Justice Jackson, L.S.

The Court are pleased to direct in modification of Rule 15 of the rules of practice for Courts of Small Causes, that all pleaders, who were actually practising in any Moonsiff's Court at the time of the establishment of a Court of Small Causes within the Jurisdiction of that Moonsiffee, be allowed to practise in such Small Cause Court.

Circular, No. 29.

DATED, CALCUTTA, THE 8TH OCTOBER, 1863.

The Chief Justice.

The Court are pleased to authorize Judges of Districts where, with reference to the state of their files no public inconvenience will ensue, to close their Courts on the Civil side on the 13th & 14th October, and 17th, 18th & 21st November in addition to the authorized holidays on account of the Doorga Poojah, Kartick Poojah and Jaggadhattree Poojah

---

Circular, No. 30.

DATED, CALCUTTA, THE 10TH OCTOBER, 1863.

Mr. Justice Raikes,
" " Bayley.
" " Jackson, L. S.

The High Court, having found the provision made* in the Circular Order of the late Sudder Court, No. 6, dated the 12th March 1858, to be insufficient for the object intended, have resolved to extend the principle there laid down, so as fully to meet the case of Civil Ameens appointed under Act XII. of 1856. I am directed accordingly to convey the following instructions for your guidance.

* "4th.—Where boats are necessary for the use of the Ameens when employed in the interior, their hire is to be treated as an extra charge, to be defrayed by the parties concerned."

2. The salaries of the two grades* of Ameenships, *viz.*, 70 Rs. and 50 Rs. per mensem, are intended to support the Ameens, but are not sufficient to defray, in addition, the necessary charges incurred by them in travelling to and from

* *Vide* Sudder Circular No. 24,* dated 6th November 1857.

---

* CIRCULAR, No. 24.

DATED THE 6TH NOVEMBER, 1857.

I am directed by the Sudder Court to acquaint you that, with the sanction of the Governor-General of India in Council, the Lieutenant-Governor has been pleased to determine that the Civil Court Ameens to be appointed under Act XII. of 1856, shall be 99 in number, of whom 33, constituting a *first* class, are to draw a monthly salary of Rupees 70, and 66, constituting a *second* class, Rupees 50; and that the number assigned to your District is as follows:—

Ameens of First Class.

Ditto of Second Class.

2. In selecting proper persons for these appointments, you will be careful in all cases, to require a competent knowledge of Surveying, including exactness and facility in draughting what has been surveyed; and for the first class you should give the preference to persons who, by examination, have been declared qualified to appear as Pleaders in the Superior Courts; and for the second class, to those passed for Pleaders in the Courts of Sudder Ameens or Moonsiffs.

3. You are requested to take such steps for the appointment of these Ameens and for adopting other arrangements that may be subsidiary thereto, as shall enable you, throughout the Courts of your district, to give effect to the new Act from the 1st January, 1858. You will not fail to require any Ameen so appointed to subscribe the declaration prescribed in Section IV. of the Act.

4. The duties which may be assigned to Ameens, are set forth in Section 5. Considering the limited number of Ameens now proposed to be employed, compared with those entertained under the old Law, your careful attention should be given both to the nature of the work assigned to the Ameens and to the time which they take in performing it. Obviously the local investigations described in Clause 2, Section 5, Act XII. of 1856, and more rarely the investigations mentioned in Clause 1, are the most delicate and important of the new Ameens' duties; and by these Ameens only can such duties be performed.

The business mentioned in Clause 3, namely, delivering over possession of land, houses, and other immoveable property in execution of decrees, in the great majority of cases, is of a simple and technical character, easily to be performed through the Nazir of the Courts, and accordingly it appears to the Sudder Court desirable that, in order to avoid the withdrawal of the Court Ameens from more necessary duties, most frequently the Nazirs of Courts should be ordered to deliver over property in execution of decrees. Again the time of the Ameens may be very considerably economized by effecting through Nazirs the sale of moveable property and of immoveable property saleable under Section 8, Regulation VII. of 1825, and again a similar remark applies to the first description of business mentioned in Clause 5, namely, ascertaining the sufficiency of sureties.

the scene of inquiry: and it is not to be presumed that officers of the class under consideration, could perform their journeys on foot with sufficient celerity; and as water carriage is not available in all districts and at all times of the year, these

---

5. Upon the whole, therefore, to enable you most effectually to carry out the new Act by the Ameens assigned to your district, you are requested to instruct the Lower Courts, especially the Moonsiffs, as far as practicable, to execute directly through the Nazirs of their establishments the business described in Clauses 3 and 4, Section V. of Act XII. of 1856.

6. You will observe that in the new Act no provision is made for employing Ameens in effecting attachments of moveable or immoveable property The processes in such cases must, therefore, be served by the Nazirs of the Courts.

7. It is understood that hitherto the completion of Ameens' Reports has been much retarded from the imperfect and loose orders recorded for their guidance. In future, before issuing orders for the employment of an Ameen, the several Courts will be careful to consider the exact nature of the work to be done, the means to which the Ameen is to have recourse for doing it, and the time it should occupy; and they will instruct him accordingly. Sometimes it may be possible for the Court to indicate to the parties concerned the date from which the Ameen's proceedings are to commence; in other cases the Ameen may have to notify this date; but under any circumstances it should be distinctly understood that the Ameen is not to defer his proceedings owing to the absence of a party to whom notice has been given.

8. All the Courts must distinctly understand that the Sudder Court cannot countenance the pernicious practice, not unseldom followed, of deputing two or three Ameens in succession to investigate the same matter. This very objectionable course almost invariably arises from the original instructions being loosely given, and the first Ameen's execution of them being inadequately superintended.

9. Litigants habitually attempt to impeach the genuineness of an Ameen's returns and plans by withholding the attestation of their own signature. An erroneous impression prevails that they ratify and accept what they sign. But it should be understood that, unless otherwise expressed, in merely signing a plan, for example, as witnesses to its execution, they are not necessarily precluded from subsequently stating any objection they may entertain to the mode in which it has been prepared.

10. It is believed that the employment of Ameens by Moonsiffs may be avoided in many cases in which they are now inconsiderately employed, Moonsiff's Courts are comparatively near the subject of dispute and witnesses whom it may be necessary to examine, should be summoned and examined by Moonsiffs themselves.

11. You will furnish to the Ameen two blank Books which must be kept up according to the following Forms:—

No. 1. Diary.

Month.	Day.	Short memorandum of business done daily, to be recorded daily.

journeys must be performed sometimes in other ways than on foot or by boat.

No. 2. Register.

1	2	3	4	5	6	7	8	9	10
No.	Date of receipt of order.	Date of order.	Court issuing it.	Nature of business.	Names of Party or Parties.	Date of commencement of duty.	Time fixed for performing duty.	Date of report of completion.	Remarks.

12. The Ameen will submit to you weekly a short report of business done and in hand. It may often be your duty to examine his diary and register, and to call for full details of an Ameen's proceedings; but this weekly report is intended to keep you informed of the progress of his operations and of the propriety of sending him new work. No doubt, it will frequently be possible for an Ameen to carry on more than one assigned duty, and it will be necessary for yourself, the Principal Sudder Ameen and others of your subordinates to consider how far it is proper to require his attention to be simultaneously given to more than one case.

13. You will report, for the information of the Sudder Court, the names of the Ameens whom you may appoint; and the localities which you may assign to each as constituting the ordinary limits of their operations.

14. Your very careful attention is requested to the provisions of Section 8 of the Act. The *daily rate* chargeable for the employment of an Ameen, is fixed at three Rupees. In estimating the time which any duty about to be assigned to an Ameen, may be expected to occupy, every Court will, as near as may be, determine the time within which the business, once undertaken, should be completed.

15. The whole expence in each case to be levied, must be prepaid at the rate of three Rupees a day. From the accumulations of this Fund, the fixed salaries of the Ameens have to be paid: and it has been distinctly intimated by the Government that no portion of the charge to be incurred by the appointment of Ameens, can be defrayed by the State

16. On any given duty being by an Ameen closed, the Ameen will specially report the time it occupied, and each Court will at once consider and record the amount which, on account of the Ameen's employment, is chargeable to costs of suit. If in any case the estimated pre payment be found to exceed the actual charge, the excess should be refunded.

17. Much care will also be necessary to confine, within exact limits, the fees leviable by Section 9 in sale cases. The pre-payment made in these cases, you will observe, is intended to provide for the Ameen's remuneration, when from any cause a sale may not take effect. In this case, also, on the termination

3. The Court are accordingly pleased to authorize you, in all cases in which a local investigation is necessary of the nature described in *Clause 3, Section 5, Act XII. of 1856, to charge the parties to a suit, requiring the services of an Ameen, with his travelling expenses either by land or water. These expenses must be calculated with reference to the distance to be travelled, and the means by which the journey can be performed

* Should be "*Clause* 2." *See* C O. No 4, dated 20th January, 1864.

4. They can only, however, be charged where actually necessary, and must be deposited in addition to the 3 Rs per diem (including the days occupied in transit,) which is levied from suitors and credited to Government as the cost of the employment of Ameens. But the deposit for travelling expenses must not be credited to the Ameen Fund, but paid directly to the Ameen himself

---

Circular, No. 31.

DATED, CALCUTTA, THE 13TH OCTOBER, 1863

To the Civil Courts in the Lower Provinces of the Presidency of Bengal, and to all other Civil Courts subordinate to the High Court of Judicature at Fort William in Bengal.

---

of the proceedings, the cost incurred by the Ameen's deputation, should be considered; if the whole sum chargeable on behalf of the Ameen, at three Rupees a day, *do not exceed* the deduction made from the proceeds of sale at the rate of one anna in the Rupee (6¼ per cent) the latter sum will be wholly credited to the Fee Fund, and the estimated sum, paid in anticipation of the sale, will be refunded; if the sum chargeable for the time of the Ameen's employment *exceed* the percentage receivable from the sale, then only so much can be refunded as, taking the two items together, will leave the exact cost of the Ameen's deputation to be covered. If no sale at all occur, the cost of the Ameen's deputation must be wholly covered by the pre-payment.

18 Separate instructions will be communicated to you by the Accountant to the Government of Bengal, as to the mode in which your receipts and disbursements on account of Civil Court Ameens' salaries, should be exhibited.

The Chief Justice.
Mr. Justice Bayley.
" " Norman.
" " Morgan.
" " Jackson, L.S.

By paragraph 47 of the Circular Order of the late Sudder Court, No. 147, dated July 29th, 1859, the particular attention of the Lower Courts was called to the rule in Section 172 of Act VIII. of 1859, and the

---

* CIRCULAR, No. 23.

DATED THE 29TH JULY, 1859.

In order to prevent as far as possible any diversity of practice in carrying out the provisions of Act VIII. of 1859, the Court are pleased to direct your attention to the following points.

2. As all suits are in future to be instituted in the Court of the lowest grade competent to try them,* it follows that they can rarely, if ever, be instituted in the Courts of the Judges or Additional Judges.

* Section 6.

3. These Courts, however, continue to possess the power of withdrawing suits instituted in the subordinate Courts, and trying them in their own, whenever they may see sufficient cause for doing so. This power affords them opportunities of instructing the lower Courts practically in the procedure of the new Code which the Courts expect that they will not neglect.

Section 6.

4. The institution of a second suit in another Court for the same cause of action during the pendency of the first suit is, you will observe, no longer punishable by dismissal of the second suit, as was the case under Section 12, Regulation III. of 1793; but, under Section 6 of the Code, the superior Courts have the power of transferring such second suit to the Court in which the first suit is being tried.

5. The misjoinder of two or more causes of action also no longer subjects the plaintiff to a non-suit. Under Section 9 of the Code, the Court will, in such cases, direct that those causes of action which cannot conveniently be tried together, shall be tried as separate suits. It will be necessary to take care, in those cases, however, that the original institution fee is sufficient to cover all the different causes of action in the plaint.

6. Upon a plaint being presented, the Judge or other presiding officer should note, or cause to be noted on the back the date of presentation, and whether it has been presented by the plaintiff in person, or by his authorized agent or pleader.

7. He should then examine the plaint carefully, to see that it contains the particulars specified in Section 26; that it is not unnecessarily prolix; and that it is verified in the manner directed in Section 27.

8. The personal attendance of the plaintiff in Court for the purpose of verification is unnecessary. He may make the verification and sign the plaint where he pleases. He must present it, however, in Court, either in person, or through a duly appointed pleader, unless he is not within the jurisdiction of the Court, in which case alone he is authorised under Section 16 to appear by a recognised agent. The pleader must sign the plaint, but is not required to verify it. In all these cases the plaintiff, however, is responsible for the statements contained in his plaint.

9 Under Section 28 the Court, in the event of the plaintiff's absence, or for other good cause, may allow the verification to be made by any person they consider competent. Care must be taken, however, that this provision is not abused. Good cause must always be shown for non-verification of the plaint by the plaintiff himself, and no person should be considered competent to verify, who is not *personally* acquainted with the facts of the case.

Judges were directed to take notice of all violations of the rule, which should come under their notice. The rule laid down by that Section was, that the evidence of each witness should be taken down by, or in the presence and under the personal

---

10. The attention of the Courts is particularly directed to the specimens of plaints contained in Section 26; and to the necessity of great firmness at first in order to check the tendency to prolixity which the mookhtears and others, who have hitherto been in the habit of drawing up plaints, will doubtless evince. When the plaint contains any argument or anything beyond a concise statement of the points enumerated in Clauses 1, 2, and 3 of Section 26, it should invariably be returned for amendment, or, in extreme cases, rejected.

11. The presiding officer should next consider whether the plaint is inadmissible on any of the grounds indicated in Sections 8, 9, 30, 31, 32, or 33.

12. If he finds it necessary to reject the plaint, he must record a judicial order to that effect in his own vernacular, with his reasons for such order, either on the back of the plaint, or on a separate paper: and the plaint, with the judgment and any deposition of the plaintiff, or his pleader, or authorized agent which may have been taken, will then be deposited in the record-room of the Court in the usual manner.

13. If a plaint is returned to the party presenting it for amendment, the date of its presentation and return, the name of the party presenting it, and a concise reason for its return, such as "too prolix," or "argumentative," "no jurisdiction in this Court," &c. shall be endorsed upon it, before it is returned, and signed and sealed by the presiding officer.

14. A Register shall be kept of all returned, and another of all rejected, plaints in the following form :—

1	2	3	4	5
Date of presentation.	By whom presented.	Ground of { Return / Rejection } concisely stated	Date of { Return / Rejection }	Signature of Judicial Officer.

15. These Registers should be bound, the pages numbered, and each page stamped with the Court's seal. They should be filled up on the bench by the serishtadar, or other head Officer present, when the order is passed; and the Amlah should not be permitted to fill them up afterwards or in a separate room from the presiding Officer.

16. If the plaint is unobjectionable, the Court in which it is presented must next consider, whether it is necessary to take security from the plaintiff under Section 34 or 35, or to apply to the Zillah or Sudder Court, under Sections 11, 12, or 13, for authority to proceed with the trial of the suit.

17. If the Court considers the plaint admissible at once, an order must be recorded for its entry in Register A; and a memorandum should also be endorsed on it, at the same time, of the documents which the plaintiff has filed along with it, together with the names of the persons presenting them. This is of great importance, as documents not filed with the plaint are inadmissible afterwards, except on cause shown.

superintendence of, the Judge. That the Court should record such remarks as it might think material, respecting the demeanor of the witness while under examination. That in cases in which the evidence should not be taken down in writing by the Judge

---

18. When parties claim to appear as pleaders, or authorized agents, their vakalutnamas or powers of attorney should, where practicable, be filed, in original, with the plaint; where the power of attorney is a general one, a copy should be filed, and the original presented for verification.

19. When copies of documents are filed under Section 39, the serishtadar or head Officer of the Court will, as a general rule, compare them with the originals, and certify on the face of them that he has done so, and that they correspond. Copies of important documents, such as wills and deeds, on which suits are founded, should, however, be verified by the presiding Officer himself.

20. When the order is passed for registering the plaint, the plaintiff must next deposit with the Nazir, the fees necessary for the summons of the defendant or defendants, according to the table of fees suspended in the Court-room, and no process will issue until he does so.*

* Section 23.

21. If the plaintiff wishes the defendant to be required to produce any document, it will be observed that he must file a description of it with his plaint, in order that the summons may be framed accordingly. Under the provisions of Section 107, however, he is not precluded from serving the defendant with a notice for this purpose at a later period.

Section 40.

22. There does not appear to be any penalty under Act VIII. of 1859 for delay in proceeding with a suit. The plaintiff therefore cannot be required to take out a summons within any fixed period.

23. On the Nazir reporting that the fees have been deposited, the Court should fix a day without loss of time for the appearance of the defendant. This is a matter which will require considerable care and attention, especially if the parties are to appear in person; for it is very desirable that postponements should take place as seldom as possible, and that, as a general rule, causes should always be heard upon the day fixed. The date specified in the summons also ought in all cases to be so far distant, as to afford the defendant ample time to prepare his defence. No general rule can be laid down on this subject; but the Court, issuing the summons, ought particularly to take into consideration the nature of the case, whether simple or complicated, slight or important, and the state of its own files, together with the particulars noted in Section 45.

Sections 41 and 45.

24. A memorandum book, with columns for each Court day in the year, showing the causes set down for trial on each date, will greatly facilitate a decision on this point, and should invariably be kept. A cause list setting forth the day fixed for the hearing of each cause, ought also to be suspended in the Court-room for the information of parties and their pleaders.

25. In determining whether the summons shall be for the settlement of issues only, or for the final disposal of the case,* the Court must, of course, be guided entirely by the nature of the suit, and the probability or otherwise of the facts stated in the plaint being disputed by the defendant on grounds which will require the production of much evidence, or will involve much forensic contention. Where the case appears simple, and it seems probable that a correct judgment can be formed at the first hearing from the examinations

* Section 41.

himself, he should be bound, as the examination of each witness should proceed, to make a memorandum of the substance of what such witness should depose, and that the memorandum should

---

of the parties, or their agents, and such evidence, oral or documentary, as they can bring with them, the summons will, of course, be for a final disposal of the case at the first hearing.

26. Much discretion will be required in the exercise of the powers vested in the Courts by Section 42 of compelling the personal attendance of the plaintiff or defendant. On the one hand, it is important that this power should not be used so as unnecessarily to harass suitors. On the other, it is one which, if exercised judiciously, will tend to curtail litigation, and will enable the Court to arrive at more satisfactory conclusions than would otherwise be possible. The best general rule which can be laid down on this subject probably is, that parties should only be summoned in those cases where it seems certain that they must have a better personal knowledge of the facts than any one else, and where facts are disputed, the correct determination of which is essential to the formation of a satisfactory judgment. To summon a zemindar in many of the disputes which arise between himself and his ryots, would generally be a vexatious proceeding, because men of this class usually conduct their affairs through the agency of others, and would therefore be unable to give direct testimony; but in cases where the question is whether the defendant personally executed a certain deed, or made the contract which the suit seeks to enforce, the interests of justice clearly require that the party himself should be brought into Court.

27. A wide discretion, however, is left to Judicial Officers in this matter; and the Court would impress strongly upon the Zillah Judges the importance of watching carefully the manner in which it is exercised by the lower Courts.

28. The provisions in the new Code regarding the service of summons, should be carefully explained to the Nazir of the Court and his subordinates. They differ in many respects from the old law.

29. The form of injunction under Section 92 will be as follows:—

Court of the Principal Sudder Ameen, Zillah 24-Pergunnahs.

No. 220 of 1859.

RADHAMOHUN BANERJEE, ...*Plaintiff*,

versus

KHETTERMOHUN SHA,..... .. .. *Defendant.*

Suit for possession of 10 Bs. 2 c. of land, with houses and trees in Mouzah Rampore, Pergunnah Myda.

Khettermohun Sha, of Mouzah Rampore, Pergunnah Myda, take notice—

Whereas it has been shown to the satisfaction of the Court, in this suit, that the property in dispute is in danger of being alienated by you, *or* (that you are about to damage the property in dispute by *cutting down the trees*) or (*removing the houses*). Now, therefore, you are hereby commanded to refrain from (*doing the act complained of*): herein fail not.

Given under the seal and signature of the Court, this 21st day of August, 1859.

Seal of Court.

Principal Sudder Ameen.

be written and signed by the Judge, and should accompany the record. It was further enacted, that if the Judge should be prevented from making a memorandum as required, he should record the reason of his inability to do so.

---

30. The heading of the injunction, under Section 93, will be the same as the foregoing; but the preamble will be as follows:—

Whereas application has been made to this Court, by Radhamohun Banerjee, plaintiff, in the suit abovementioned, for an order to restrain you from [*the injury or breach complained of.*] Now, therefore, you are hereby commanded, on penalty of imprisonment, to refrain from repeating, *or continuing* the act complained of *or* [from committing any further breach of contract] *or* [injury] arising out of the contract now being litigated in the suit abovementioned *or* [with reference to the property or right] now under litigation in the above suit: you are also hereby commanded to keep true accounts for the Court's inspection of all sums, receipts, and disbursements in connection with the { contract / property / business } aforesaid, and you are warned that this injunction will continue in force from the 20th day of Assin, 1267, [September, 1859,] to the 1st of Maugh, 1267, [January, 1859.]

Given under the seal and signature of the Court, this 21st day of August, 1859.

Seal of Court.

Principal Sudder Ameen.

31. These forms must, of course, be varied to suit particular cases; but the general character of the forms should in all cases be preserved, and care should be taken that whatever the defendant is enjoined to refrain from doing, should be expressed in clear and precise terms, so as not to admit of any doubt.

32. It will be observed that no specific penalty is attached to disobedience of an injunction under Section 92. In all cases, however, either of actual or threatened disobedience to the order of the Court, it can, if it think it necessary for the preservation, or better management or custody of the property, appoint a receiver, or give such other orders of a like character for the prevention of waste or alienation as it may consider advisable.

33. It will be observed that the chapter on the death, marriage, and bankruptcy of parties (Sec. 99 and following Sections) introduces a very important change into the procedure of our Courts. Hitherto, when a plaintiff or defendant died during the pendency of a suit, the suit itself was placed in abeyance, and it was necessary for the Judge to issue notices calling on the legal representatives of the deceased to appear. Under the new Code there need not, in the majority of cases, be any interruption to the suit, and it is left to the parties themselves to move the Court to substitute the name of the heir or representative for that of the deceased. There is no doubt that these provisions will prevent much of delay which has hitherto occurred in the disposal of civil suits.

34. Under Sections 111 and 112, it will be seen that cases cannot be decided *ex-parte*, until the Court is satisfied either by the evidence of the parties serving the process, or other proof, that the summons has been duly served on the

In several cases which have recently come before this Court, "pressure of business," "excess of business," &c., have been recorded as reasons for not making a memorandum of the evidence as required by the Act. But pressure or excess of business was

---

defendant according to some one of the modes of service specified in the chapter on service of summons.

35. It will be understood that, even although the defendant does not appear, the plaintiff must prove his case to the satisfaction of the Court before he can obtain a decree. The defendant also, it will be observed, may apply for an order to set aside the *ex-parte* judgment at any period between the date of the judgment and the 30th day after process has been taken out for its enforcement.

36. The provision in Section 115, which admits of one plaintiff or one defendant appearing and acting for other plaintiffs and defendants, on filing a written authority in Court, is a new one, and should be noted.

37. The only case in which a defendant is compelled to put in a written statement without the order of the Court is, where he desires to set off a claim of his own against the debt claimed by the plaintiff. In other cases, it is discretionary with him to file a written reply or not, as he thinks proper.

38. The Court has the power of calling for written statements in all cases, where it may consider it necessary to do so.

39. But this power should only be exercised, as a general rule, where the case is complicated, or defendant is not present in person.

40. It should be carefully borne in mind that all written statements must be subscribed and verified by the parties themselves or the competent persons referred to in paragraph 9, and that any wilful falsehood contained in these statements, subjects the subscriber to a prosecution for perjury.

41. With regard to the examination of the parties at the first hearing of the suit, it is only necessary to point out that (except in cases which are to be finally disposed of at the first hearing) the examination should be limited to obtaining from each party a clear statement of the facts on which he relies, and ascertaining from him the exact points on which he and his adversary are at issue. If either of the parties has put in a written statement, it will only be necessary to question him regarding any allegations in that statement, which appear obscure, or any facts alleged by his adversary, which he has not fully noticed. Where the parties are represented by pleaders or agents who have not put in a written statement, it will probably be most convenient to allow them to make a concise statement of the facts of their client's case in the first place, questioning them afterwards on those points of difference between their adversaries and themselves on which they do not appear to have been sufficiently explicit.

42. Cross-examination by the pleaders on either side, ought not to be permitted at this stage of the proceedings. The examination is to be wholly by the Court.

43. The power vested in the Courts by Section 127 of summoning the parties to answer particular questions, is only to be exercised where the question is material to one of the issues in the case, where the pleader has been unable or has refused to answer it, and where the Court has reason to believe that the party himself, if present, could answer it of his own knowledge. The Court, therefore, in all cases where they summon parties under this Section, will be careful to record the question or questions, the pleader's inability to answer which has induced them to summon the parties, and the grounds of their expectation, that the party summoned will be able to answer them.

never intended by the Legislature to be considered as a sufficient reason or excuse for not complying with the Act. If the Judge attentively listens to the evidence as it is given, and watches the demeanor of the witness, as he is bound to do, and for the

---

44. When the issues are framed, the Court may either dispose of the case at once after hearing argument and evidence, or may fix a day for the production of evidence and for argument on the issues. In the latter case the issues and the notice to attend, will be recorded in the following form :—

Regular suit, No. 98, Ram Chunder, plaintiff, *versus* Sham Chunder, defendant. In this case, the issues are—

In bar of suit arising on the plaint [or plaintiff's statement].

1 ——— ———
2 ——— ———
3 ——— ———
4 ——— ———

Of Fact.

1 ——— ———
2 ——— ———
3 ——— ———
4 ——— ———

Of Law arising out of facts found.

1 ——— ———
2 ——— ———
3 ——— ———
4 ——— ———

The above issues were settled by the Court at the hearing of this case, on the ——— of ———, when the following persons were orally examined——— ——— ——— ———

The case stands adjourned for the final hearing under Section 172, till the ——— of ———, when both parties are required to have their witnesses in attendance at this Court, at 11 A. M.

45. The Courts will take notice of the provisions of the Code (Sections 155 and 159) which allow service of a summons to a witness to be made on any adult male member of his family residing with him. It is not meant by this provision that service on a personal enemy of the witness would be sufficient service on the witness, merely because they occupied the same homestead. To render the service a good service, the parties must be *bond fide* living together in commensality, or at least in the same house. Care will be necessary to prevent this Section being taken advantage of for purposes of fraud.

46. Under Section 159, it will be observed that, in future, witnesses who keep out of the way, so that they cannot be served, are not to be proceeded against without proof that their evidence is material, and their property is not to be attached, except at the instance of the party summoning them.

47. The lower Courts should pay particular attention to the Rule in Section 172, which requires that all evidence shall be taken under the personal superintendence of the Judge; and that if he does not write it down himself, he shall make a memorandum of the substance, which he shall sign and file with the record, recording the reason of his inability whenever he is unable to do so. The Zillah Judges will take notice of all violations of this Rule which come under their notice.

48. The authority conveyed in Sections 180 and 181 to appoint suitable persons to make local investigations, or to investigate accounts, and to charge

neglect of which duty no pressure of business can form an excuse, it will not occupy further time to take a memorandum of the substance of the evidence. In other cases, there has been a mere short note stating the result of the evidence of several

---

their expenses to the party at whose instance and for whose benefit they are appointed, is a most valuable one, and it will be the fault of the Courts, henceforward, if they employ any other than well qualified and trustworthy persons to perform these duties.

49. It will be seen that there is a material difference in the mode in which the Court may deal with the reports of Commissioners appointed for local investigations under Section 180, and of those appointed to investigate accounts under Section 181. The report in the former case must be received as evidence, although the Commissioner may be examined touching his proceedings, and the Court may, of course, attach its own weight to the evidence; but in the latter case the Court may instruct the Commissioner to submit his proceedings with or without a report, or, if dissatisfied with his proceedings, may direct further enquiry.

50. The decree (Section 189) is, it will be seen, altogether distinct from the judgment, although it also must be signed by the Judge. The form will be as follows:—

Court of the Principal Sudder Ameen of the 24-Pergunnahs.
Dated 20th August, 1859.

No. 220 of 1859.

RADHAMOHUN BANERJEE, son of RAJKISSEN BANERJEE, inhabitant of Mouzah Andool, Pergunnah Myda, *Plaintiff*,

versus

RAJKISSEN BHUTTACHARJ, son of DENONATH BHUTTACHARJ, inhabitant of Rampore, Pergunnah Myda, *Defendant*.

Suit for (extract particulars of claim given in the Register of the suit).

This cause coming on to be heard and debated this present day before Baboo ——————————, Rai Bahadoor, Principal Sudder Ameen of Zillah 24-Pergunnahs, in the presence of Baboo Gour Doss Byaackh, counsel for the plaintiff, and Moonshee Abbas Ali, counsel for the defendant, (or if the parties appear in person, mention their names) and the evidence, oral and documentary, produced by the plaintiff and the defendant respectively having been heard, and due consideration having been given to what was alleged by the counsel (or by the parties) on both sides, the Court orders and decrees that (here state the decretal order in terms of the judgment. Where costs are awarded, give a detail of the costs which either party is to pay, and insert the other particulars required by the 190th and following Sections of the Code).

Seal of Court.

Principal Sudder Ameen.

The terms of the decretal order should be carefully studied before the decree is signed, and the directions should be precise, so that there may be no ambiguity.

witnesses together, in a few words, the memorandum showing on the face of it, that it could not have been made until after all the witnesses, of whose evidence the result was given, had been examined. Such a memorandum, it is evident, is no compliance

---

51. The following shall be the form of the notice which the Court is to issue under Section 216:—

Court of the ——— ———.
No —— of ——— ———.
——— ——— ——— ——— Decree-holder.
——— ——— ——— ——— Judgment-debtor.

To ———, inhabitant of ——— Take notice that an application has this day been made by ———, inhabitant of ———, for enforcement of the decree passed against you on the ———, in the suit noted in the margin, and that you are required to appear on or before the ———, and show cause why execution of the said decree should not issue against you, failing which, an order for execution will forthwith issue in terms of the application,

Given under my hand and the seal of this Court.

Seal of Court.

Principal Sudder Ameen.

52. Resistance of process, in cases of attachment or seizure of moveable property, is still punishable under Section 25, Regulation IV. of 1793, which has not been repealed. No provision has been made in the Code for the punishment of resistance in these cases.

53. The prohibitory orders in Sections 234, 235 and 236 may have the same heading as the notice in para. 51. The body of the order, however, will run thus:—

Whereas the decree-holder in the case abovementioned has applied for attachment of the following property, *viz.* ———, and it appears that the aforesaid property is at present in your possession, take notice, therefore, that you are hereby prohibited from (here give the prohibition in terms as nearly as possible of the Sections referred to, describing with precision the property referred to).

Given under my hand and the seal of this Court.

Seal of Court.

Principal Sudder Ameen.

A slight variation will adapt these forms to the notices of attachment authorized in Section 237.

54. The attention of the Courts is called to the provisions of Sections 243 and 244, which confer on them the power of postponing, at the instance of the

with the Act, which requires the memorandum to be written as the examination of each witness proceeds.

In another case tried before a late Principal Sudder Ameen, it was represented to the Court that the examination of a witness in one case was being taken down, whilst the Principal Sudder Ameen was listening to the argument of a Vakeel in another case. Such a course of proceeding, if it took place, was a clear violation of the Act, for when the Legislature directed that the

---

judgment-debtor, a sale in execution of decree if they are satisfied that the amount may be raised by mortgage or lease. Care must be taken that this power is not so exercised as to inflict an injury on the decree-holder.

55. Sales of land paying revenue to Government, are only to be made through the Collector under Section 248 in the event of the Government so directing. Where no special authority has been given by the Government to the Collector, they will be held, as heretofore, by an officer of the Civil Court.

56. Section 260 prohibits suits for the recovery of lands sold in execution of decrees, when founded on the plea that they were purchased *benamee*.

57. Sections 270 and 271 introduce an important alteration in the principle on which sale-proceeds have hitherto been distributed.

58. The chapters on reference to arbitration and proceedings on agreement of parties, also contain much new matter which should be noted.

59. Section 333 directs that the period allowed for appeal shall be reckoned exclusive of the time requisite for obtaining a copy of the decree appealed against. In granting copies of decrees, therefore, the lower Courts will be careful to endorse on them the date of application for copies, and the date when such copies were ready for delivery to the appellant. When the requisite stamps are not filed with the petition, the date of application must be considered to be that on which the stamps were filed, and the mohurrirs were enabled to commence the preparation of the copies. The endorsement, therefore, must always state on what date the stamp papers were deposited. The appellate Court should be careful to notice any delay in furnishing these copies.

59. Where appeals are preferred from decisions passed before the 1st of July, and appellants would be deprived of any right in reference to the procedure of the suit by the operation of Act VIII. of 1859, the appeal must be heard under the old Law. A similar Rule applies to the original trial of all suits pending when this Act came into operation.

60. In the preceding remarks the Court have not thought it necessary to do more than to call attention to the principal features of the new Code and to the most important of the many changes, which it introduces in the old system of procedure. The Code itself must be thoroughly studied, Section by Section. Its success in the different Courts depends in a peculiar degree on the judgment and discretion with which it is worked by individual Judges, and neither the one, nor the other can be exercised to any purpose without a perfect familiarity with its provisions.

61. The Court request that the Zillah Judges will exert themselves to preserve uniformity in the working of the Code in their respective districts, and that they will communicate freely with them whenever they experience any difficulties.

62. The Court will expect a report in July, 1860, on the results of the past year's experience of the Code in the several Courts of each district.

evidence of witnesses should be taken under the personal superintendence of the Judge, it never could have been intended that the Judge should be attending to other business at the same time.

These cases are given merely as instances to show how the Act has been disregarded in many of the Civil Courts in the Mofussil.

It is not the wish of the Court to advert further to the past, but to express their determination that the provisions of the Act shall be strictly complied with in future.

They therefore direct, that after the promulgation of this order, the following rules shall be strictly observed by the Judges of every grade:—

1. Every witness shall be examined *viva voce* in open Court in the presence of the Judge.

2. A Judge shall not be engaged in any other business whilst the examination of a witness is going on, or whilst any documentary evidence is being read.

3. If, whilst the examination of a witness is going on, the Judge be compelled to attend to any other business, the examination of the witness shall stop as long as such other business is being attended to.

4. The examination of a witness shall not be interrupted for the purpose of enabling the Judge to attend to other business, unless such business be of an urgent nature.

5. If the evidence be not taken down by the Judge, he shall make a memorandum in his own handwriting of the substance of what each witness deposes. Such memorandum shall be written legibly in the Vernacular language of the Judge, or in English (at the option of the Judge,) if he is sufficiently acquainted with that language, and it shall be signed by the Judge and dated, and shall form part of the record and be always sent up with the record to the Appellate Court in the event of an appeal.

6. *Pressure* of business will form no excuse for not making the memorandum; physical inability (the nature of which shall be recorded) will alone be admitted as an excuse.

7 It shall be the duty of every Appellate Court subordinate to the High Court, to examine the memorandum of the evidence made by the Judge of the Court of First Instance, and to report to the High Court, in every case in which, upon the hearing of a Regular Appeal, it shall appear that the above rules have not been strictly and properly attended to.

8. The memorandum made by the Judge of the Court of First Instance shall, in all cases, form part of the documents to be sent up to the High Court on Special as well as on Regular Appeals.

9. After the examination of witnesses has commenced, the trial should be proceeded with until all the witnesses on both sides have been examined, those of the party upon whom the *onus* of proof lies being examined first, and then those of the opposite party, and an adjournment of the hearing shall not be allowed, except for sufficient cause which shall be recorded. Particular attention is called to the last paragraph of Section 145, Act VIII. of 1859, by which it is provided, "that if the summons shall have been issued for the final disposal of the suit, and either party shall fail, without sufficient cause, to produce the evidence on which he relies, the Court may at once give Judgment." The same rule is applicable after a day is fixed for trial.

10. Cases may arise in which, from the absence of an important witness which could not be avoided by the party who requires his evidence, it may be necessary to adjourn the hearing. In such cases, the evidence of the witnesses in attendance shall be taken, and the witnesses shall not be detained, or required to attend again, unless for some special reason to be recorded.

11. Whenever an adjournment takes place, it shall be for as short a time as possible, regard being had to the circumstances under which the adjournment is granted.

12. No adjournment shall be granted in any case, except *viva voce* in open Court The day to which the case is adjourned

shall, in all cases, be stated publicly by the Judge in open Court, and the reason for the adjournment shall also be stated and recorded.

13. A list of all cases adjourned and the day to which each case is adjourned, shall be affixed in some conspicuous part of the Court House.

14. If, after all the witnesses have been examined, the exhibits perused, and the parties heard by themselves or their pleader, the Judge be not prepared to deliver Judgment, he may postpone the delivery thereof until a future day, of which due notice must be given, as required by Section 183, Act VIII. of 1859. The witnesses shall not be detained.

15. The whole of the Judgment as written in pursuance of Sections 184 and 185 of Act VIII. of 1859, shall be pronounced *viva voce* in open Court, either in the language in which it is written or in the language used in the Court.

16. The Judge of the Court, in which the Judgment is delivered, will be held responsible if the decree be not drawn up in every case within a reasonable time after the delivery of the Judgment, or if certified copies thereof be not furnished pursuant to Section 198, Act VIII. of 1859, within a reasonable time after application for the same and the production of the necessary stamps.

17. The Judge shall make a memorandum on the decree, of the date on which he actually signs it, and on the certified copies, of the day on which they are furnished

18. The Judge of every Court shall sit punctually at the hour appointed.

19. A copy of these Rules, together with a translation thereof in Bengallee and Urdu, shall be affixed or hung up in some conspicuous part of the Court-house in every Civil Court, and shall be kept so affixed or hung up at all times during the sitting of the Court.

20. No excuse will be admitted for any wilful or negligent disobedience of the above Rules, and the Judge of the District

shall report to this Court in every case in which a violation of the same shall come under his notice.

The Court is satisfied that, by a strict compliance with the above Rules, the administration of justice will be greatly improved. Much irrelevant matter which is now copied over and over again in the depositions of the witnesses, in almost the same words, will be omitted. The depositions will be shortened, and the record will not be loaded with statements, which are wholly irrelevant and inadmissible as evidence.

It will be the duty of the Judge to ascertain, by a few questions put to each witness at the proper time, whether he is speaking of matters within his own knowledge, or merely of those which he has heard from others; and if the former, what are his means of knowledge.

If any doubt exist as to the admissibility in any particular case of hearsay evidence, the answers will be recorded; and in cases in which it shall appear to the Judge that it is clearly not admissible, the evidence will be rejected and need not be recorded. But, if requested by either party or his pleader, the Judge shall make a note that the evidence, stating the nature of it, was tendered by the plaintiff or defendant, as the case may be, and that it was rejected, together with the reason for rejecting it. The Judge is expected to give his sole and undivided attention to the evidence as it proceeds, and to discriminate between that which is relevant and legally admissible and that which is not, and to record such remarks respecting the demeanor of each witness, while under examination, as may be material.

If the Judge entertain a doubt as to the admissibility of the evidence, the safer course will be to admit it, if not objected to by the opposite party or his pleader; and if objected to, to take down the question and answer, and also the objection and the name of the party making it, as required by Section 172.

The Judge will be held responsible for the manner in which

the evidence is recorded, and for testing the evidence of the witnesses and ascertaining their means of knowledge, and recording whether they are speaking from their own knowledge, or merely from hearsay or report.

Another matter, which has attracted the attention of the Court, is the manner in which cases are tried.

As a general rule, when once the examination of witnesses has commenced, the trial should be proceeded with until all the witnesses on both sides have been examined, those of the party upon whom the *onus* of proof lies being examined first, and then those of the opposite party. No fresh case should be taken up intermediately. Cases will doubtless occur in which, from the absence of an important witness or witnesses, or other sufficient cause, it may be necessary to postpone the hearing before all the evidence has been recorded. In such cases, the evidence of all the witnesses in attendance should be taken, and the witnesses should not be detained or required to attend again, unless for some special reason.

The Judges should bear in mind that, when a day has been fixed for the production of evidence and for the final hearing of a suit, and notice has been given pursuant to Section 44 of the Circular Order No. 147 of 1859, the hearing should not be adjourned, unless upon application and sufficient cause shown by one of the parties. Attention is called to the latter part of Section 145, Act VIII. of 1859, by which it is enacted "that, if the summons shall have been issued for the final disposal of the suit, and either party shall fail, without sufficient cause, to produce the evidence on which he relies, the Court may at once give Judgment;" and to the latter part of Section 146, which provides that, in all cases in which time is given to either party, "the party applying shall pay the costs occasioned by the adjournment, unless the Court shall otherwise direct." In all cases in which an adjournment of the hearing takes place after the examination of witnesses has commenced, the adjournment should be for as short a period as possible, re-

gard being had to the circumstances under which it is granted, and the reasons for the adjournment should be recorded.

If, after all the witnesses have been examined and the parties or their pleaders have been heard, the Judge be not prepared to give Judgment at once, the witnesses should not be detained, but the Judge may postpone the delivery of Judgment until a future day, of which due notice should be given, as required by Section 183, Act VIII. of 1859.

The whole of the Judgment, written as required by Sections 184 and 185 of Act VIII. of 1859, should be delivered *vivâ voce* in open Court.

It will be the duty of the Judge to see that the decree is drawn up in every case within a reasonable time after the Judgment is delivered. The Judge shall make a memorandum on the decree, of the date on which it is actually signed by him.

The Court has reason to believe that some of the Judges do not attend punctually at the hour appointed for the sitting of the Court. It should be borne in mind that, independently of all other considerations, such a practice must necessarily cause great inconvenience and delay to suitors and witnesses, and that it is unreasonable that many should be kept waiting for the convenience of one.

The Court wishes it to be understood, that the character and merits of a Judge do not depend so much upon the number of suits which he decides, as upon the soundness and accuracy of his decisions, and the Judges of every grade may rest assured that, in reviewing their Monthly* Returns, due allowance will be made by this Court for the time necessarily occupied in the proper and effectual discharge of their duties, and in carrying out strictly the requirements of the Code of Civil Procedure.

* Now "Quarterly."

Circular, No. 32.

DATED, CALCUTTA, THE 14TH OCTOBER, 1863.

The Chief Justice.
Mr. Justice Bayley.
" " Norman.
" " Morgan.
" " Jackson, L. S.

I am directed to forward Circular Order, No. 31, dated the 13th instant, for the information of the Judges of the Civil Courts of every grade, and to state that the Rules laid down by the Court are required to be strictly attended to.

Printed copies of the Rules will be forwarded for the purpose of enabling the Judges of every grade to comply with the provisions of Rule, No. 19.

I am directed to request, that you will immediately bring to the notice of the Court any infringement of the Rules which comes to your knowledge.

Circular, No. 33.

DATED THE 25TH NOVEMBER, 1863.

Forwards, for the information and guidance of the Civil and Criminal Authorities, a copy of a letter No. 7623, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the* 14*th November*, 1863.

(Copy.)

With reference to the accompanying copy of a communication from the Civil Pay Master, No. 3319, dated the 30th ultimo, I am directed by the Lieutenant-Governor to request that you will be good enough, with the permission of the Hon'ble Judges of the High Court, to issue instructions to the Heads of Departments under its control, directing them on all occasions in which they may have to submit applications for the grant of Pensions or Gratuities, to draw up in each case a separate covering letter and statement of service, as the submission of several applications under one covering letter and one statement of service, is liable to cause confusion, and, in some instances, delay in the disposal of cases.

Official Memorandum from the Civil Pay Master, No. 3319, *dated the* 30*th October*, 1863.

The submission of several applications for Pension and Gratuity, with one statement of service and one covering letter, is liable to cause confusion, and, in some instances, delay in the preparation of my Report, and it is desirable, therefore, that separate Statements and letters, drawn up in as concise a form as possible, should accompany each application.

Circular, No. 34.

DATED THE 27TH NOVEMBER, 1863.

Forwards, for the information and guidance of the Civil Authorities in the Lower Provinces, a copy of a letter, No. 7591, *from the Secretary to the Government of Bengal, to the Registrar of the High Court of Judicature, Bengal, dated Fort William, the* 13*th November*, 1863.

(Copy.)

I am directed to request that, with the permission of the Hon'ble the Judges of the High Court, you will be so good as to include the name of Nawab Syud Azum Ali Khan, of Moorshedabad, in the list of persons who have been exempted from personal attendance in the Courts, under the provisions of Section 22 of Act VIII. of 1859.

Circular, No. 35.

DATED THE 9TH DECEMBER, 1863.

The Chief Justice.
Mr. Justice Raikes.

It is hereby notified, for general information, that the High Court and its Subordinate Civil Courts will be closed in the year 1864, on the dates indicated in the annexed Memorandum.

List of the Holidays for

Names of Holidays.	English Month.	Bengali Month.
New Year's day and the 2 days following, ...	1st to 3rd Jan., 1864.	18th to 20th Pous, 1270.
Shubeburrat, ...	24th Jan., 1864.	12th Maugh, 1270.
Bussunt Punchoomee, ...	12th & 13th Feb., 1864.	1st & 2nd Falgoon, 1270.
Sheo Rattree, ...	6th & 7th March, 1864.	24th & 25th Falgoon, 1270.
Edool Fittur, ...	10th & 11th March, 1864.	28th & 29th Falgoon, 1270.
Dole Jattra, ...	23rd & 24th March, 1864.	11th & 12th Chyte, 1270.
Good Friday and the day following,	25th & 26th March, 1864.	13th & 14th Chyte, 1270.
Baroonee Asnan,...	4th April, 1864.	23rd Chyte, 1270.
Moha Bishoob Sunkrantee, ...	11th April, 1864.	30th Chyte, 1270.
Ram Nobomee, ...	15th April, 1864.	4th Byssack, 1271.
Edoozohah, ...	17th & 18th May, 1864.	5th & 6th Jeyt, 1271.
Queen's Birth-day and the day previous, ...	23rd & 24th May, 1864.	11th & 12th Jeyt, 1271.
Mohurrum, including the Dussohara, Gunga Asnan, a Hindoo Holiday, ...	From 12th to 16th June, 1864.	31st Jeyt to 4th Assar, 1271.
Ruth Jattra, ...	6th July, 1864.	24th Assar, 1271.
Oolta Ruth, ...	14th July, 1864.	32nd Assar, 1271.
Akheree Chahar Sumbah, ...	3rd August, 1864.	20th Srabun, 1271.
Futch Doozdohum, ...	16th August, 1864.	1st Bhadoon, 1271.
Junem Ustomee, ...	24th & 25th August, 1864.	9th & 10th Bhadoon, 1271.
Mohaloya, ...	30th Sept., 1864.	15th Assin, 1271.
Dusserah Vacation, including Luchmee Poojah, Dewallee, and Bhatreedwituya,... ...	From 3rd Oct. to 2nd Nov., 1864.	18th Assin to 18th Kartick, 1271.
Juggodhattree Poojah, ...	8th & 9th Nov., 1864.	24th & 25th Kartick, 1271.
Kartick Poojah, ...	14th & 15th Nov., 1864.	30th Kartick & 1st Ughran, 1271.
Christmas-day and the 2 days following, ...	25th to 27th Dec., 1864.	11th to 13th Pous, 1271.

the Year 1864.

Days of the Week.	No. of Days.	Remarks.
Friday to Sunday.	3 Days.	
Sunday.	1 Day.	But if the Moon be not visible on the 10th January, 1864, then on the 25th January, 1864, Monday.
Friday and Saturday.	2 Days.	
Sunday & Monday.	2 Days.	
Thursday & Friday.	2 Days.	But if the Moon be not visible on the 9th March, 1864, then on the 11th and 12th March, 1864, Friday and Saturday.
Wednesday & Thursday.	2 Days.	
Friday & Saturday.	2 Days.	
Monday.	1 Day.	
Monday.	1 Day.	
Friday.	1 Day.	
Tuesday & Wednesday.	2 Days.	But if the Moon be visible on the 6th May, 1864, then on the 16th and 17th May, 1864, Monday and Tuesday.
Monday & Tuesday.	2 Days.	
Sunday to Thursday inclusive.	5 Days.	But if the Moon be not visible on the 5th June, 1864, then from 13th to 17th June, 1864, Monday to Friday.
Wednesday.	1 Day.	
Thursday.	1 Day.	
Wednesday.	1 Day.	
Tuesday.	1 Day.	But if the Moon be visible on the 3rd Augt., 1864, then on the 15th August, Monday.
Wednesday & Thursday.	2 Days.	
Friday.	1 Day.	
Monday to Wednesday.	31 Days.	
Tuesday & Wednesday.	2 Days.	
Monday & Tuesday.	2 Days.	
Sunday to Tuesday.	3 Days	

Circular, No. 1.

DATED THE 5TH JANUARY, 1864.

Forwards, for the information of all Civil Judges, a copy of a letter, No. 30, *from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Judge of Behar, dated Calcutta, the 5th January,* 1864.

(Copy.)

Mr. Justice Raikes.

In reply to your letter, No. 202 of the 11th ultimo, I am directed to inform you that the cost of the postage of packages containing Ameen's reports should be estimated for, and should be deposited by parties to suits, in the same manner as other costs for local enquiries. The practice obtaining in your District for the Court Ameens to obtain the Moonsiffs' frank, for sending their reports, is irregular, and should be discontinued. Such papers cannot be considered to concern any public matter, such as to admit of their being sent post free on Her Majesty's Service.

Circular, No. 2.

DATED THE 14TH JANUARY, 1864.

Forwards, for information and guidance, a copy of a letter, No. 183, *from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Secretary to the Board of Revenue, Lower Provinces, dated Calcutta, the* 14*th January,* 1864.

(Copy.)

Mr. Justice Raikes.

With reference to your letter, No. 434, dated the 29th ultimo, and its annexure, I am directed to inform you that the Court see no objection to the arrangement proposed by the Deputy Auditor-General, that the fees for examination of Candidates for the Pleadership Examination at the Presidency be deposited in the Treasury of the Collector of Calcutta, and those for the examination in the Mofussil, at the Collectorate of the stations that may be selected as the Head Quarters of each District.

Circular, No. 3.

DATED THE 15TH JANUARY, 1864.

Forwards, for the information and guidance of Judges in the Lower Provinces, a Circular Memorandum of the Government of India, Financial Department, No. 6032, dated the 5th December, 1863.

It appearing from the Departmental Estimates for Police Guards of certain Local Governments and Administrations for the current year 1863-64, that they include 10 per cent. on account of supervision and clothing, which are provided for separately in their general Police Estimates, it is requested that such double provision may be avoided in future by all Officers concerned in the preparation of Departmental Estimates for Police Guards, which, under Financial Resolution, No. 3496 of 31st July, 1863, will be included under F. IV. "Police," and that head only.

Circular, No. 4.

DATED, CALCUTTA, THE 20TH JANUARY, 1864.

Mr. Justice Raikes.

Substitutes the words "*Clause* 2" for "*Clause* 3" in the 2nd line of para. 3 of printed Circular, No. 30, dated the 10th October, 1863.

Circular, No. 5.

DATED, CALCUTTA, THE 27TH JANUARY, 1864.

Mr. Justice Raikes.

The attention of all Zillah Judges is particularly requested to Circulars of the late Sudder Court, No. 38,* dated 5th September, 1845, and No. 31, dated 25th November, 1856.

---

* CIRCULAR, No. 38.

DATED THE 5TH SEPTEMBER, 1845.

The Court of Sudder Dewanny Adawlut for the Lower Provinces, having been vested by Government with the discretionary power of authorizing Civil Judges to make inspectional tours within the limits of their respective districts, whenever such may appear advisable, are pleased to give public intima-

The Court are aware that, during the past two or three years, exceptional circumstances have prevented Zillah Judges from regularly visiting and inspecting the Courts of their subordinate Judges; but, as the files are generally very greatly reduced, the Court think it necessary to remind Zillah Judges of the extreme importance of this portion of their duties, which should be no longer neglected, and the Court will not fail to notice any marked neglect to comply with their especial orders in this respect, which were issued at the instance of Government.

A statement of the nature described in para. 4 of Circular Order No. 31,* dated 25th November, 1856, should be sub-

---

tion of the same, and to direct that, whenever a Civil Judge may consider it expedient to visit each, or any, of the mofussil Courts subordinate to him, he will submit a report explaining the considerations, or circumstances, that may have suggested it, the object which it is proposed to effect, and the probable duration of his contemplated absence. On receiving such an application, the Court will be generally prepared to accede to the same with the understanding that, on the completion of such inspectional tour, the Judge will report fully on all matters connected with the character, conduct, and qualifications of the Moonsiffs, with their mode of conducting business, and with the condition of their offices, so far as opportunity of forming a judgment on these points shall be afforded to him.

2. In forwarding applications of the nature adverted to, the Civil Judges will be expected to annex a Statement of the business, both regular and miscellaneous pending in their Courts, and a Memorandum shewing the number of commitments and criminal appeals awaiting decision at the date of such application.

* CIRCULAR, No. 31.

DATED THE 25TH NOVEMBER, 1856.

It has been intimated to the Court, that the Lieutenant-Governor has observed, during his late tour, a great want of uniformity, on the part of the Uncovenanted Judges, in the manner of conducting the business of their Courts; many officers carrying on their proceedings according to their respective ideas of propriety, and without sufficient attention to the Rules of Procedure that have been laid down by the Court A great want of decorum was likewise discernible in some Courts, the Pleaders being allowed to interrupt each other and speak at the same time; the presiding officer, himself, in many cases, joining warmly in the discussion.

2 To remedy these defects, the Court, in conformity to the directions of Government, authorize you occasionally to visit the Courts of the subordinate Judges of your District, especially of the Principal Sudder Ameen, Sudder Ameen, and Sudder Moonsiff; and to see that their proceedings are so conducted as to ensure order, regularity, and obedience to the prescribed Rules.

3. Whenever you may have occasion to visit the Moonsiffees in the interior of the District, the Rules laid down by the Circular Order, No. 103, now number 38, of the 5th September, 1845, should be adhered to.

4. You will submit a Statement, in your Annual Report, of the measures which you shall have adopted to improve the Courts under your control.

mitted with the Annual Report of the Civil Administration of each District.

Circular, No. 6.

DATED THE 3RD FEBRUARY, 1864.

Forwards to the Civil Judges in the Lower Provinces a copy of a letter, No. 653, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, 27th January, 1864, with a request that the information called for by Government, may be submitted on an early date in the Tabular Form annexed.

(Copy.)

I am directed to forward to you the accompanying copy of a letter, No. 360, dated the 16th instant, from the Secretary to the Government of India, in the Home Department, and to request that you will be good enough to move the Hon'ble Judges of the High Court, if they see no objection, to cause the information therein required in regard to the lands and emoluments enjoyed by Cazees in the Bengal Presidency, to be obtained from the Zillah Judges and communicated to this Government in a Tabular Form.

From the Secretary to the Government of India, Home Department, to the Secretary to the Government of Bengal,—(No. 363, dated the 16th January, 1864).

I am directed to request that, with the permission of the Hon'ble the Lieutenant-Governor, you will have the goodness to furnish, for the information of the Government of India, a Tabular Statement showing the lands and emoluments now enjoyed by Cazees in the Bengal Presidency. The Statement should show the amount held by each Cazee, and the aggregate value as well.

2. It is understood that there are four modes in which Cazees are remunerated by Government, exclusive of the fees which they may receive from the people, *viz.* :—

I. Endowments of land

II. Money payments with which the Office was endowed by Native Governments.

III. Money endowments granted by the British Government.

IV. Khilluts, or dresses of honor.

3. The Return should show the income of Cazees under each of these heads.

Statement showing the Lands and Emoluments enjoyed by Cazees in the Bengal Presidency.

1	2	3	4	5	6	7
Name.	City or Pergunnah to which attached.	Endowments of land.	Money payments with which the Office was endowed by Native Governments.	Money Endowments granted by the British Government.	Khilluts, or dresses of honor.	Remarks, if any.

Circular, No. 7.

DATED, CALCUTTA, THE 2ND MARCH, 1864.

Mr. Justice Raikes.

All applications for leave, pension, or gratuity, should, instead of being sent *direct* to the Registrar of the High Court, be addressed to him through the Civil Pay Master, who, in forwarding it to the High Court, will be able to attach to it his Certificate, which is always necessary before any such application can be dealt with.

Every application for leave, pension, or gratuity, should be enclosed in two envelopes; the inner being directed to the Registrar of the High Court, the outer to the Civil Pay Master.

The Court expect these instructions will in future, be strictly observed.

Circular, No. 8.

DATED, CALCUTTA, THE 5TH MARCH, 1864.

Mr. Justice Raikes.

I am directed to inform you, for the future guidance of yourself and your Subordinates, in both Civil and Criminal Departments, that, in any case in which the proceed-

ings of any Court have been conducted in a vernacular language *other than Urdu*, it is not necessary, when those proceedings are submitted to the High Court, that they should be accompanied by a translation into Urdu.

Circular, No. 9.

DATED THE 10TH MARCH, 1864.

Forwards, for the information and guidance of all Civil and Criminal Authorities in the Lower Provinces, and in continuation of Circular Order, No. 22, *dated the* 28*th July*, 1863, *a copy of a letter, No.* 1345, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the* 1*st March*, 1864.

(Copy.)

I am directed by the Lieutenant-Governor to forward herewith a copy of a letter addressed this day to the Inspector-General of Police, in the Lower Provinces, on the subject of providing Police escorts for money remitted from one Treasury or Public Officer to another, and to solicit that the Hon'ble the Judges of the High Court will be so good as to communicate the Rule therein laid down to the several Officers subordinate to them.

From the Under-Secretary to the Government of Bengal, to the Inspector-General of Police, Lower Provinces,—(*No.* 1338, *dated the* 1*st March*, 1864).

With reference to your letter, No. 1794, dated 13th August last, recommending the adoption of some definite arrangement for providing Police escorts for money remitted from one Treasury or Public Officer to another, I am directed to inform you that, after consulting the Divisional Commissioners and Civil and Sessions Judges of the Lower Provinces on the matter, the Lieutenant-Governor is pleased to lay it down

as a general rule that, in future, remittances of money to or from the Sudder Treasury, shall be made on stated days twice in each month under escort of the Police; the days selected being any day between the 1st and the 3rd inclusive, and any day between the 15th and 17th of each month.

2. All Officers in charge of Treasuries, or otherwise custodians of public money, will be prohibited from having recourse to the previous practice of making frequent and indiscriminate requisitions for money escorts, and directed henceforth to regulate their remittances, as far as circumstances will permit, in accordance with the Rule now laid down. You are requested to instruct your subordinates, in communication with the Officers in each district concerned, to make the necessary arrangements for periodical escorts in conformity with the general Rule above laid down.

3. But I am at the same time desired to impress upon you that this Rule is not to preclude the supply of an escort on other than the fixed dates in emergent cases, where the amount of the proposed remittance or other special circumstances may render an extra escort necessary.

Circular, No. 10.

DATED, CALCUTTA, THE 26TH APRIL, 1864.

Mr. Justice Trevor. Very considerable inconvenience having been felt in consequence of the great delay in the Offices of Zillah Judges and others in forwarding the records of cases called for by the Court on appeal from the judgments and orders passed therein, the Court are pleased to notify that they expect that, in future, within seven days from the receipt of their order calling for a record, the record will be despatched, or, in the event of any delay occurring in its despatch, that a reply will be sent explaining the cause of the delay and the date on which it is expected that the requisition of the Court will be complied with.

2. The Court think it preferable that, in Regular Appeals, the entire record be sent than that there should be such delay as has been experienced up to the present time; but the Court have every expectation that, after this notice, Judges of all grades will impress upon their Ministerial Officers the necessity for complying with the Court's orders with greater promptness; and that the Court will have no further cause of complaint in this respect.

Circular, No. 10A.

DATED, CALCUTTA, THE 26TH APRIL. 1864.

Mr. Justice Trevor.

The Lieutenant-Governor, in accordance with Act V. (B.C.) of 1863, has been pleased to sanction, as an experimental measure for one year, that Peons attached to the Civil Courts of the several grades, in Lower Bengal, shall be remunerated by fixed salaries, instead of by tullubana fees, as heretofore; these fees being credited to Government.

2. It has been further ordered that these Peons shall be divided into two grades; those of the higher grade, which should on no account exceed one-third of the number employed in any district, being paid at the monthly rate of six Rupees, and those of the lower grades five Rupees. The maximum number of Peons of the higher grade, should not be employed unless under exceptional circumstances, to be determined by Zillah Judges, with reference to the current rate of wages of that description of service obtainable in any particular district.

3. Tullubana for the issue of Civil Processes should be charged at the rate of three annas per diem, according to the distance of the place at which service or execution is to take place from the Court whence the process issues, a day's journey being reckoned at 10 miles, and one day additional being allowed for the service of the process.

4. Tables of distances of the principal Towns and Villages within their respective jurisdictions should be prepared by and affixed in a conspicuous place in the Courts of the Judges of all grades.

5. The Government and the Court expect that, by constant personal enquiries and examination of the Registers, Zillah Judges will subject

the working of this new system to the closest supervision; for it is anticipated that, not only economy, but increased efficiency will be found to result from its introduction. The Court wish to impress upon the Judges of all grades the importance that Government attaches to their careful supervision in the introduction of this experimental measure, the success of which has been already proved during the past years in the Courts of the North-Western Provinces; and the Court will not fail to report to Government any case in which it may appear that the failure of this measure is attributable to the neglect or carelessness of any Judge.

6. The superior Judge of every Zillah or Extra Regulation District or Province is requested, with as little delay as possible, to submit Returns for the Courts subordinate to him in the form A, hereto annexed.

7. Judges of Courts of Small Causes established under Act XLII. of 1860, should submit separate Returns for their respective Courts.

8 Until further orders, quarterly Returns should be submitted in form B, in order that the Court may be able to watch carefully the working of the new system.

9. In conclusion Zillah Judges are informed, that, from the 1st May next, from which date the provisions of Act V. (B.C.) of 1863 will come into operation, the Lieutenant-Governor has been pleased to raise the salaries of the Nazirs of their Courts to 50 Rupees per mensem.

(*See in continuation, Circular Orders, No.* 4, *dated* 31*st March*, 1865, *and No.* 5, *dated the* 28*th February*, 1866.)

A.

Description of each Civil Court.	Number of Peons attached to each Court.	Number of Peons, each grade, attached to each Court.	Total cost of Peons attached to each Court.

B.

Designation of the several Courts in the District.	Disbursement on account of the salaries of Peons of each Court during past quarter.	Receipts in each Civil Court in the District on account of Tullubana fees.

Circular, No. 11.

DATED, CALCUTTA, THE 30TH APRIL, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.

As the appointments of Pergunnah Cazees have been abolished by the enactment of Act XI. of 1864, the Court are pleased to direct that Cazees be called upon to send in, without delay, their books and seals of Office to the Judge of the district in which they may be located, as such books and seals belong to the Office under the Regulations which have been recently repealed.

Circular, No. 12.

No Circular bearing this number was issued.

Circular, No. 13.

DATED, CALCUTTA, THE 10TH MAY, 1864.

Mr. Justice Trevor.

The Court have from time to time been addressed by various Officers by means of letters addressed to the Registrar forwarding some Vernacular paper, *e. g.* Judicial Proceeding, Report of a subor-

dinate Ministerial Officer, and such like, and therefore deem it expedient to draw attention to the inconvenience arising from this practice, and to lay down definite Rules for the guidance of Officers in this respect.

2. A covering letter of the nature described in the foregoing should never be addressed to the Court.

3. The transmission of Vernacular papers should be discontinued as much as possible.

4. No Vernacular paper should be addressed to the Court, unless it refers to some Judicial Proceeding before the Court, or is a copy of some proceeding forming part of any Judicial record. In such a case the Vernacular paper should be sent with a short Memo. written on the face of it.

5. Reports of subordinate Ministerial Officers are obviously intended only for the superior Officer to whom they may be addressed, and should never be transmitted to the Court, either in original or by copy. If it be necessary to address the Court regarding the subject matter of any such report, the contents of that report should be embodied in an English letter.

Circular, No. 14.

DATED, CALCUTTA, THE 12TH MAY, 1864.

The Offg Chief Justice.
Mr Justice Trevor.
" " Loch.

The Court having found, in several cases which have recently come before them, that the written statements put in by the parties are not presented on the first hearing of the case, as required by Section 120, Act VIII. of 1859, but are put in at any time, and not unfrequently take the form of answer and reply, direct me to draw your particular attention to Sections 120 and 122 of the Code, and to request that you will impress upon your Subordinates and the Pleaders and Mooktears in attendance in the Court the necessity of a strict adherence to the Rules therein laid down.

2. The Court further direct that you will instruct the Serishtadar, or other Officer of your Court, to prepare a memorandum, to be filed with the records in each case brought up in appeal, showing the date on which the first hearing of the suit was fixed, and the dates on which the written statements of the parties, if any, with the record were filed.

Circular, No. 15.

DATED, CALCUTTA, THE 14TH MAY, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.

In continuation of the High Court's recent Circular, No. 5, dated 27th January last, reminding Zillah Judges of the extreme importance of regularly visiting and inspecting the Courts of their subordinate Judges, it is hereby notified that the late Sudder Court's Circulars on the subject as per margin, are cancelled, and the following instructions circulated for future observance :—

* No. 38, dated 5th Sept. 1845.
No. 31, dated 25th Nov. 1856.

2. The Court consider it incumbent on every Civil Judge to visit annually, if possible, the Courts subordinate to him (including the Courts of those Officers who are located at the Sudder Station) for the purpose of satisfying himself that their proceedings are conducted strictly according to law and so as to ensure order, regularity, and attention to the Rules prescribed for their guidance. While, however, insisting on the necessity and importance of a personal inspection of the subordinate Courts by the Zillah Judges, the High Court desire to leave the time and occasion of such inspection to the Judges themselves, who should use their own discretion in making their inspectional visits when, having regard to their other duties and the state of their files, they think it most fit and convenient.

3. Whenever a Civil Judge may consider it expedient to visit each, or any, of the Moonsiffees in the interior of his district,

he will intimate to the High Court his intention to quit his station, reporting at the same time the state of his files and the probable duration of his absence. On the completion of such inspectional tour, the Judge will report fully on all matters connected with the character, conduct, and qualifications of the Officers whose Courts were visited, with their mode of conducting business, and with the condition of their Offices, so far as opportunity is afforded to him of forming a judgment on these important points.

4. The Court have remarked in many cases, which have come before them, either in Regular or Special Appeal, a very lax observance on the part of the subordinate Courts, of the provisions of Act VIII. of 1859 : it is, therefore, a special instruction that, when reporting on the mode in which the subordinate Courts perform their duties after a personal inspection, the Judges note particularly the degree of attention which is shown by them to the provisions of Act VIII. of 1859, especially to the Rules regarding the drawing up of the plaint and the written statement of the parties before the Court, the examination of the parties to the suit, the settlement of the issues, and the examination of the witnesses. The Judge will, moveover, remark particularly on the degree of ability exhibited by the Judge in examining parties before him, and in checking the putting of irrelevant questions by the pleader before him, in ascertaining and settling the issues in a suit, and generally in the conduct of a case before him.

5. As some misapprehension has been found to exist in regard to the time to be spent upon these visits into the interior, some Judges having applied for tents while on tour, it seems necessary to explain that the Court do not contemplate such a sacrifice of time upon the duty of inspectional visits, as the necessity for living under canvas would imply. A few hours spent in a Moonsiff's Cutcherry, when the business of the Judge's Court allowed of this being done, would ordinarily suffice for the object in view; and for such purpose, the Judge might

travel by dawk, drawing the travelling allowance authorized by the Government of India, in its Resolution, dated 26th April, 1858, forwarded to you with Circular No. 14* of 1858. In any special case, however, where the use of a tent is deemed indispensable, the Judge might procure the loan of the Magistrate's Camp equipage, or apply to Government for the means of discharging the duty required of him.

(See in continuation Circular Order, No. 10, 19th May 1865.)

---

* CIRCULAR, No. 14.

DATED THE 26TH APRIL, 1858.

I am directed by the Court to forward for your information, the accompanying Extract from the Proceedings of the Government of India, in the Financial Department, under date the 26th ultimo, allowing Zillah Judges, when visiting the Moonsiffees in the interior of their Districts, the option of charging for Travelling Allowance, either at the rate of 8 Rupees per diem, or 8 annas per mile.

No. 1801.

EXTRACT from the Proceedings of the Hon'ble the President of the Council of India in Council, in the Financial Department, under date the 26th March, 1858.

Read an Endorsement from the Home Department, No. 603, dated the 11th instant, forwarding, for consideration and orders, a letter with enclosure from the Government of Bengal, respecting Travelling Allowance to Zillah Judges.

RESOLUTION.—The Government of Bengal reports that, by the Circular Order of the Sudder Court of 25th Nov. 1856, No. 31, which was issued at the instance of the Lieutenant-Governor, the Zillah Judges were instructed to pay periodical visits to the Courts of the Subordinate Judges in the interior of their Districts; and as they are sometimes subjected to considerable loss from the rapidity with which their visits are made, the Lieutenant-Governor recommends that the Zillah Judges may be permitted to charge at the rate of 8 annas a mile when going expressly to visit the Moonsiffees in the interior of their Districts, under the orders of the Sudder Court abovementioned.

The Hon'ble the President in Council has been pleased to approve of the above proposal.

ORDER.—Ordered that a copy of the foregoing Resolution be communicated to the Home Department in reply to the endorsement from that Department above adverted to.

Circular, No. 16.

DATED, CALCUTTA, THE 3RD JUNE, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan,
" " Campbell.

The Court are pleased to direct that in all plaints, pleadings, and proceedings, oral or written, in the Mofussil Courts subordinate to the High Court, the language used shall be the Vernacular of the District, and not Persian, Persianized Oordoo, or any other foreign language.

Circular, No. 17.

DATED, CALCUTTA, THE 8TH JUNE, 1864.

Mr. Justice Trevor. I am directed by the Court to request that you will be so good as to forward a list of the Civil and Criminal Law Books which may be in *your own* office belonging to Government; and at the same time to inform them, whether any Law Books belonging to the Government are in the offices of the Principal Sudder Ameens or not.

2. You are further requested to state, at the present time, what particular Books should, in your opinion, be furnished to the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs, and also whether they should be in English or in the Vernacular, or in both; and also what number of each would be required.

3. I am desired to add that the answer to this requisition should be prepared with care and accuracy, and at the same time with as little delay as possible.

Circular, No. 18.

DATED, CALCUTTA, THE 8TH JUNE, 1864.

Mr. Justice Trevor. The question of the expediency of abolishing the post of Nazir in Courts of Small Causes has been brought before the Court. It has been represented that, as Section 3, Act V, of 1863, vests the Head Clerk in such Courts with power to nominate

peons, and as Section VIII of that Act, and Section 5, Act XII. of 1861, empower him to endorse and issue all processes, the Nazir has very little to do, and his services could be dispensed with without inconvenience.

2. Before arriving at any conclusion on the subject, the Court request that Judges of Courts of Small Causes will favor them with their opinion on the point. In the event of a Judge being of opinion that the Nazir's services could be dispensed with, he should also state whether any, and, if so, what increase of salaries, not exceeding in the aggregate the amount of the Nazir's salary, should be granted to the 2nd and 3rd Clerks.

(No action was ever taken on the Returns to this Circular.)

Circular, No. 19.

DATED THE 24TH JUNE, 1864.

Forwards copy of a letter No. 3266, *from the Junior Secretary to the Government of Bengal, dated the* 1*st June*, 1864, *for information and guidance of the Judges in the Lower Provinces, with an intimation that the office of Hindoo and Mahomedan Law Officers will be abolished from the* 1*st July following, as far as regards the receipt of allowance by these Officers; the office itself having been abolished by Law since* 18*th March preceding.*

I am directed to state, for the information of the Hon'ble Judges of the High Court, that, under the provisions of Act XI. of 1864, the Lieutenant-Governor has been pleased to direct that the office of Hindoo Law Officer in the Lower Provinces shall be abolished from the 1st July next, from which date all the existing Law Officers will cease to draw pay on account of such offices.

2. The Officers named in the margin having been reported by the Commissioners of their respective Divisions to be qualified to hold the appointment of Deputy Magistrate and Deputy Collector, will be retained as Supernumerary Deputy Magistrates and Deputy Collectors on their present salary Rupees 150 per mensem, till they are absorbed into the regular strength of the subordinate Executive Service.

Pundit Hiramund Misser, Dacca Circle. Pundit Govindkant Bidyabhooshun, Morshedabad Circle.

They will, however, be employed at the Sudder Stations of Districts, and not entrusted with a separate charge.

3. In regard to Pundit Petamber Turkobagish, of the Patna Circle, the Commissioner of that Division has reported that he possesses no qualifications whatever for the office of Deputy Magistrate and Deputy Collector. The Pundit's services will, therefore, be dispensed with from the date abovementioned, and he should be told to apply for pension if he is entitled to it.

4. I am to request that the Hon'ble Judges of the High Court will be so good as to issue the necessary instructions to the Officers concerned.

Circular, No. 20.

DATED, CALCUTTA, THE 12TH JULY, 1864.

Forwards, for remarks or suggestions, a copy of a *Bill for consolidating and amending the laws relating to the procedure of Civil Courts in India.*

Circular, No. 21.

DATED, CALCUTTA, THE 13TH JULY, 1864.

Mr. Justice Trevor.

Several references having been recently made to the High Court by Civil Judges, for instruction as to the mode in which the salaries of Peons employed under Act V. of 1863, (Bengal Council) should be paid, and how the Tullubana realized under that Law should be dealt with, I am directed to draw your attention to Sections 9 and 10 of the Act, from which you will see that instruction on such points should be sought from the Government of Bengal.

Circular, No. 22.

DATED, CALCUTTA, THE 22ND JULY, 1864.

Mr. Justice Trevor.

The Court circulate, for general information and guidance, the accompanying copy of a letter No. 1004T of the 25th ultimo, from the Secretary to the Government of

Bengal, exempting Syud Hasun Ali and Syud Hosain Ali, the two eldest sons of the Nawab Nazim of Moorshedabad from personal attendance in the Courts.

(Copy.)

I am directed by the Lieutenant-Governor to request that, with the permission of the Hon'ble Judges of the High Court, you will be so good as to include the names of Syud Hasun Ali and Syud Hosain Ali, the two eldest sons of the Nawab Nazim of Moorshedabad, in the list of persons who have been exempted from personal attendance in the Courts under the provisions of Section 22 of Act VIII. of 1859.

Circular, No. 23.

DATED, CALCUTTA, THE 6TH AUGUST, 1864.

Mr. Justice Trevor.

I have the honor, by direction of the High Court, and at the instance of the Government of Bengal, to forward herewith a printed copy of a Bill, entitled "The Indian Civil Code, Chapter I.," the Statement of Objects and Reasons, and the Report of Her Majesty's Commissioners thereon; and to invite you, at the request of the Governor-General in Council, to consider the Bill and to offer any remarks or suggestions which may occur to you, upon its provisions.

2. Your observations should be submitted as early as possible.

Circular, No. 24.

DATED, CALCUTTA, THE 13TH AUGUST, 1864.

Authorizes District Judges to close their Courts on the 3rd, 4th, 5th, 7th, 10th, 11th and 12th November, in addition to the authorized Dusserah Vacation where no public inconvenience will ensue.

Circular, No. 25.

DATED, CALCUTTA, THE 17TH AUGUST, 1864.

Mr. Justice Trevor.

It having been brought to the Court's notice that some Subordinate Judges of the lower grades, who

were absent from their Station on leave during the Dusserah last year, did not rejoin their appointments immediately at the close of the vacation, I am directed to draw your attention to Rule 21 of the Uncovenanted Leave Rules which provides for loss of pay in all cases, and forfeiture of appointment in some cases, in which Privilege leave is overstayed. As the Government have ruled that Vacation leave to Judicial Officers stands *in the place of* privilege leave to other Officers, the Court will see that the conditions under which the latter is granted, are duly observed where the former is obtained.

21. "An Officer who overstays "privilege leave by not more than "one month, will forfeit pay for the "period in excess; but if he exceed "his leave by more than one month, "his office will become vacant. An "Officer on privilege leave, who may "resign the Service, or who may ob- "tain sick leave without first rejoin- "ing, will, in the former case, forfeit "his salary for the period of pri- "vilege leave, and, in the latter "case, be subject to the Rules for "sick leave for the whole period of "his absence."—*Vide* Financial Notification, dated 13th April, 1864, No. 1915.

2. Accordingly, in submitting any application for vacation leave, the Zillah Judge should distinctly certify that it can be granted without injury to the Public Service, or additional expense to the State; and where an Officer has failed to rejoin his appointment in time to sit on the very day the Courts re-open after the Dusserah, he should be reported to the Civil Paymaster as absent without leave, and his absence brought to the notice of the High Court. Under Rule 24, no Officer can draw any salary until his return from Vacation leave.

Circular, No. 26.

DATED CALCUTTA, THE 18TH AUGUST, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.

Circular Order, No. 6, dated 10th September, 1862, directing that junior pleaders who had been permitted to practise in the Higher Courts, should be relegated to their proper Courts, as well as the Court's later orders, in particular cases modifying the Circular only so far as to allow such pleaders to continue to practise where they

were practising, subject to their undergoing an examination at the earliest possible period, having in several instances been felt to operate as a hardship, the Court are pleased to rescind the same and to observe :—

2. That originally these Pleaders should not, without application to the Sudder Court first made by the Judges, have been admitted without examination to the higher Mofussil Courts ; as however they have been admitted, and as it appears that some of them are very able and greatly trusted Pleaders in those Courts, and as time has in a measure remedied the original error in their appointment, the Court are pleased to permit all those junior Pleaders in the Principal Sudder Ameens' and Judges' Courts, who have not passed the required examination, regarding whose character and attainments, evidenced by a three years' course of practice, the Judges are able to certify, to remain in the Court in which they have been admitted to practise without any further examination.

3. In pursuance of this permission, the Judge of each of the Zillahs under the jurisdiction of the High Court, is accordingly requested, within one month from the receipt of this order, to send up a Roll of the persons irregularly admitted to practise under any such orders by the Zillah or other Judges in his own and the Principal Sudder Ameens' Courts, regarding whose character and attainments, evidenced in the mode above indicated, he can certify. These persons will then be accepted as Pleaders of the Senior grade and obtain their Diplomas accordingly.

4. In future, however, no one *under any circumstances* will be admitted to practise in any of the Courts of the Mofussil, without having gone through the probation prescribed by the Rules in force regulating the admission of Pleaders.

(For form of license to plead, see Circular Order, No. 36, dated the 27th December, 1864.)

Circular, No. 27.

DATED, CALCUTTA, THE 6TH SEPTEMBER, 1864.

To Judges of Courts of Small Causes in the Mofussil.

Mr. Justice Trevor.
" " Loch.
" " Steer.

The High Court, having been informed that a difference of opinion exists among Judges of Small Cause Courts in the Mofussil as to the competency of the Head Clerk of such a Court to sign a requisition to the Judge of another Court to cause a process to be

served upon a party residing within the jurisdiction of that other Court, are pleased to issue the following instruction on the subject. :—

2. As the Clerk of a Court of Small Causes is required by Section 5, Act XII. of 1861, "subject to the Orders of the Court," to issue all Summonses, Warrants, Orders, and Writs of Execution, the High Court are of opinion that the Head Clerk of a Mofussil Small Cause Court is competent to sign requisitions to other Courts, with a view to the service of process, provided that such requisitions shall issue *in the name* of the presiding Judge, and be signed as *by order* of that functionary.

Circular, No. 28.

DATED, CALCUTTA, THE 20TH SEPTEMBER, 1864.

Mr. Justice Trevor.

Frequent instances having occurred where copies of translations, instead of copies of judgments of the Lower Courts "written in the Vernacular language of the Judge," have been filed in this Court with petitions of Appeal, all Civil Judges are requested, in complying with applications for copies for the purposes of Appeal, to carry out the requirement of the law (Section 373, Act VIII. of 1859) and furnish copies, and not translations, of their judgments.

Circular, No. 29.

DATED, CALCUTTA, THE 22ND SEPTEMBER, 1864.

Mr. Justice Trevor.

The Court circulate, for general information and guidance, the accompanying copy of a letter No. 3023T. of the 10th instant, from the Secretary to the Government of Bengal, exempting Rajah Indro Bhoosun Deb Roy of Newaldangah, Jessore, from personal attendance in the Courts.

(Copy.)

I am directed to request that the Hon'ble Judges will have the goodness to cause the name of Rajah Indro Bhoosun Deb Roy of Newaldangah, Jessore, to be included in the list of persons who have been exempted from personal attendance in the Courts under the provisions of Section 22 of Act VIII. of 1869.

Circular, No. 30.

DATED, CALCUTTA, THE 24TH SEPTEMBER, 1864.

Mr. Justice Trevor.

In modification of the Rule laid down in Circular Order of the late Sudder Court, dated 15th May, 1840, No. 84, fixing the time allowed to Native Judicial Officers to join their appointments, and the rate at which they are required to travel,* the High Court are pleased, with the sanction of the Lieutenant-Governor of Bengal, to lay down the following Rule for observance by all Uncovenanted Judicial Officers proceeding by Rail to join their appointments, which will place them, as regards the time allowed for the purpose, on a footing with Covenanted Officers.

* Rate of progress, 10 miles a day, (Sundays excepted). Time for preparation, one week.

2. Whenever an Uncovenanted Judicial Officer of any grade is appointed to a Station, or transferred to an appointment, to which he may proceed by Railway, he shall be allowed 15 days for preparation, and one day for every 100 miles of the distance he may travel by Rail.

Circular, No. 31.

DATED, CALCUTTA, THE 3RD OCTOBER, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.

The High Court, having had before them instances of the abuse of the provision made by Section 333 of Act VIII. of 1859 which prescribes the period within which an appeal is to be preferred, and the mode in which that period is to be calculated, desire me to request your strict attention to para. 58 of the Circular of the late Sudder Court of the 29th July, 1859, No. 23, which, for facility

58.—"Section 333 directs that the "period allowed for appeals shall be "reckoned exclusive of the time re- "quisite for obtaining a copy of the "decree appealed against. In grant- "ing copies of decrees, therefore, the

"lower Courts will be careful to endorse on them the date of application for copies and the date when such copies were ready for delivery to the appellant. When the requisite Stamps are not filed with the petition, the date of application must be considered to be that on which the Stamps were filed, and the Mohurrirs were enabled to commence the preparation of the copies. The endorsement therefore must always state on what date the Stamp papers were deposited. The Appellate Court should be careful to notice any delay in furnishing these copies."

of reference, is transcribed in the margin.

2. It is evident from instances before the Courts that a longer time than contemplated by law for obtaining copies of judgment occurs. The delay is in some cases attributable entirely to the parties, who, in order to gain more time for filing an appeal, purposely fail to put in the requisite quantity of Stamp paper to enable the Court to prepare the copy of the judgment asked for, and they supply the deficiency by putting in other sheets of Stamp paper from time to time. To remedy this objectionable practice, the Court directs *that the time allowed for obtaining a copy, shall not begin to count till the whole of the requisite pieces of Stamp paper for the copy are put in.*

Accordingly the date on which the Stamp papers were deposited requiring to be endorsed on the copy granted, shall be understood to signify the date on which the last piece was deposited

3. The delay is sometimes caused by the non-translation of English judgments in proper time, copies of which are required by the parties to enable them to draw up their petition of appeal. It should be considered a part of the duty of the translators attached to each Court, to prepare these translations with as little delay as possible, and the Judges are requested to see that this branch of their duty is properly performed by their translators.

4. Translators were not originally entertained for this purpose, their duty having been to translate the pleadings which, under the old Procedure, were very voluminous: now, however, they have little or nothing to do in that way, and their services ought, therefore, to be employed in making the vernacular translations of the judgments, and they should be made to

understand that this is now the most important part of their duty. The Judge on his part should examine, sign, and date the translations on the day on which he certifies it as correct.

5. It has also been brought to the notice of the Court that it was the practice in some of the lower Courts, and may be so still, for the Judge to pronounce his decision at the close of the trial, but not to write his judgment until several days after; and when he put it in, to give it the date on which the decision was pronounced. This, the Court desire me to point out, is a pratice entirely at variance with the injunction contained in Section 185 of the Code of Civil Procedure, which requires the judgment to be dated and signed in open Court at the time it is pronounced, and it is from the date on which the written judgment is pronounced and signed that the time allowed for appealing, subject to the conclusion of the period required for obtaining a copy of the decree appealed against, should invariably be reckoned.

Circular, No. 32.

DATED, CALCUTTA, THE 18TH NOVEMBER, 1864.

Mr. Justice Trevor.

At the request of the Government, the Court are pleased to direct that all Civil and Criminal Authorities, subordinate to the High Court, submit their Budget Estimates in future to the Deputy Auditor and Accountant-General; those of the Courts of Civil and Sessions Judges and of the Civil Courts, subordinate to them, through the Zillah Judges; and those of the Courts of Magistrates of Districts and of Criminal Courts, subordinate to them, through the Divisonal Commissioners.

Circular, No. 33A.

DATED, CALCUTTA, THE 25TH OCTOBER, 1864.

To all Small Cause Court Judges.

Mr. Justice Trevor.

The Court are pleased to direct that all Peons under Act V. of 1863, attached to your Court, be supplied with Belts and Badges of a uniform pattern, care being taken that the inscription on the Badges embodies the particulars required by Section 5 of the Act. The Badges should be of the same size and shape as those ordinarily worn by Peons, and care should be taken to utilize the old Badges as far as possible.

2. The Judge will be good enough to furnish, the Court with an account of the expenditure on the above purpose in due course.

Circular, No. 33B.

DATED, CALCUTTA, THE 25TH OCTOBER, 1864.

Mr. Justice Trevor.

The Court are pleased to direct that all Peons under Act V. of 1863, attached to your own Court and the Courts subordinate to you, be supplied with Belts and Badges of a uniform pattern; care being taken that the inscription on the Badges embodies the particulars required by Section 5 of the Act. The Badges should be of the same size and shape as those ordinarily worn by Peons, and care should be taken to utilize the old Badges as far as possible.

2. The Judge of each District will be good enough to furnish the Court with an account of the expenditure on the above purpose in due course for his own District.

3. The Judges of Small Cause Courts have been addressed separately on the subject.

Circular, No. 34.

DATED, CALCUTTA, THE 30TH NOVEMBER, 1864.

Mr Justice Trevor.

It having been brought to the notice of the Court that the Monthly Returns, enjoined in the Circulars of the late Sudder Court as per margin, are "frequently delayed for a very considerable period," and that the recovery of the Government dues, on account of Stamp fees in pauper suits, is rendered almost impossible by the delay in informing the Collector of the decisions of the Civil Courts in such suits—the following instructions are issued for the guidance of Zillah Judges, who will also enforce their observance upon the Subordinate Courts.

Vide Circular Orders No. 11,* dated 13th April, 1846, and No. 22,† dated 2nd October, 1846.

---

* CIRCULAR, No 11.

DATED, CALCUTTA, THE 24TH APRIL, 1846

R H Rattray, Esq
C Tucker, Esq.
A. Dick, Esq

Pursuant to the instructions of the Government, the Court direct that a Statement in the subjoined form, on account of your own and the subordinate District Courts, be furnished *monthly* to the Collector, to enable that Officer to take measures for recovering the amount due to the Government on account of Stamp fees in pauper suits

Statement of Pauper Suits decided in the month of ——— 184 — *in the Courts of Zillah* ——— ——.

Court in which the suits are decided	No. of Suit.	Names of Parties	Amount due to the Govt on account of Stamp fees	Party declared liable for the amount.

† CIRCULAR, No 22

DATED, FORT WILLIAM, THE 2ND OCTOBER, 1846.

With reference to Circular Order, No 11, of the 24th April last, regarding recovery of sums due to the Government on account of Stamp fees in pauper suits, and in modification of the Monthly Statement thereby directed to be furnished to the Collector on the subject, I am instructed by the Court to

2. The Civil Court which decides a pauper suit is required by Section 309, Act VIII. of 1859, to calculate the amount of Stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount is declared to be recoverable by Government from any party ordered by the decree to pay the same. The Court desire that, whenever a decision is passed in favor of a person suing *in formâ pauperis*, the Judge deciding will *immediately* intimate the fact to the Collector of the District, and inform him simultaneously of the *amount* of Stamp fees determined under the law above cited, as well as the *names* of the parties by whom the amount is decreed to be payable, and such other particulars relative to the parties, *viz.*, place of abode, occupation, &c., as will enable the Collector to recover the dues of Government.

3. In cases in which the amount decreed is paid into Court, the Judge should deduct whatever sum is due from the judgment-

---

request that you will supply the information according to subjoined form, on account, of your own and subordinate Courts :—

Statement shewing the number of Pauper Suits decided in the Civil Courts of Zillah ——— in the month of ———, with the amount of Stamp duty leviable on the amounts of the suits decided.

By whom decided.	Date of institution of suit.	Number of the suit as per file, whether regular or appeal.	Names of suitors, with their places of residence.	Nature of the suit.	When decided.	Substance of the order passed.	Amounts of suits decided.	Stamp duty leviable as per the Regulations.	Remarks.

creditor as stamp fees, under Section 309, Code of Civil Procedure. When any such sum is deducted from the amount decreed, information should be given to the Collector, with a view to his making an application to have it made over to him for the purpose of being duly credited to Government.

Circular, No. 35.

DATED THE 19TH DECEMBER, 1864.

Mr. Justice Trevor.

It is hereby notified for general information that the High Court and its subordinate Civil Courts will be closed in the year 1865 on the dates indicated in the annexed Memorandum.

List of the Holidays for

Name of Holidays.	English Month.	Bengalee Month.
New Year's Day and the two days following, ...	1st to 3rd Jan., 1865.	19th to 21st Pous, 1271.
Shubeburrat, ...	13th Jan., 1865.	1st Magh, 1271.
Bussunt Punchoomee, ...	31st Jan. & 1st Feb., 1865.	19th & 20th Magh, 1271.
Shebo Rattree, ...	24th & 25th Feb., 1865.	14th & 15th Falgoon, 1271.
Edool Fitter, ...	28th Feb. & 1st Mar., 1865.	18th & 19th Falgoon, 1271.
Dole Jattra, ...	12th & 13th March, 1865.	30th Falgoon & 1st Chyte, 1271.
Baroonee Asnan, ...	25th March, 1865.	13th Chyte, 1271.
Ram Nubomee, ...	4th April, 1865.	23rd Chyte, 1271.
Moha Bissum Sunkrantee (Churruck Poojah), ...	11th April, 1865.	30th Chyte, 1271.
Good Friday and the day following, ...	14th & 15th April, 1865.	3rd & 4th Bysakh, 1272.
Edooz Zooha, ...	6th & 7th May, 1865.	25th & 26th Bysakh, 1272.
Queen's Birth Day and the day previous, ...	23rd & 24th May, 1865.	11th & 12th Jeyt, 1272.
Mohurrum, including the Dusseharah, Gunga Asnan, a Hindoo Holiday, ...	1st to 5th June, 1865.	20th to 24th Jeyt, 1272.
Ruth Jattra, ...	25th June, 1865.	12th Assarh, 1272.
Oolta Ruth, ...	3rd July, 1865.	20th Assarh, 1272.
Akheree Chahaar Shumbah, ...	19th July, 1865.	5th Srabun, 1272.
Futteh Dooazduham, ...	5th August, 1865.	22nd Srabun, 1272.
Junmo Ustomee, ...	13th & 14th August, 1865.	30th & 31st Srabun, 1272.
Mohaloyah, ...	19th Sept., 1865.	4th Assin, 1272.
Dusschra Vacation, including Luckhee Poojah, Dewalee, and Bratrisdityah, ...	22nd Sept. to 22nd Oct., 1865.	7th Assin to 7th Kartick, 1272.
Jugodhatree Poojah, ...	28th & 29th Oct., 1865.	13th & 14th Kartick, 1272.
Kartick Poojah, ...	14th & 15th Nov., 1865.	30th Kartick & 1st Ughran, 1272.
Christmas Day and the two days following, ...	25th to 27th Dec., 1865.	11th to 13th Pous, 1272.

the Year 1865.

Days of the Week.	Number of Days.	Remarks.
Sunday to Tuesday.	3 days.	
Friday.	1 day.	But if the Moon be not visible on the 30th December, 1864, then on the 14th January, 1865, Saturday.
Tuesday & Wednesday.	2 days.	
Friday & Saturday.	2 days.	
Tuesday & Wednesday.	2 days.	But if the Moon be not visible on the 27th February, 1865, then on the 1st and 2nd March, 1865.
Sunday & Monday.	2 days.	
Saturday.	1 day.	
Tuesday	1 day.	
Tuesday.	1 day.	
Friday & Saturday.	2 days.	
Saturday & Sunday.	2 days.	But if the Moon be visible on the 25th April, 1865, then on the 5th and 6th May, 1865, Friday and Saturday.
Tuesday & Wednesday.	2 days.	
Thursday to Monday.	5 days.	But if the Moon be not visible on the 25th May, 1865, then from the 2nd to 6th June, 1865, Friday to Tuesday.
Sunday.	1 day.	
Monday.	1 day.	
Wednesday.	1 day.	
Saturday.	1 day.	But if the Moon be visible on 23rd July, 1865, then the 4th August, Friday.
Sunday & Monday.	2 days.	
Tuesday.	1 day.	
Friday to Sunday.	31 days.	
Saturday & Sunday.	2 days.	
Tuesday & Wednesday.	2 days.	
Monday to Wednesday.	3 days.	

Circular, No. 36.

DATED THE 27TH DECEMBER, 1864.

Forwards, for information and guidance of the Zillah Judges in continuation of Circular Order, No. 26, dated 18th August, 1864, a form of License to plead.

Form of License to Plead.

Civil Judges of Zillah Dinagepore.
" Shahabad.
" Chittagong.
" E. Burdwan.
" Mymensingh.
" Rungpore.
" Tipperah.
" Patna.
" Backergunge.
" Hooghly.
" Dacca.
" Cuttack.
" Midnapore.
" Jessore.
" Beerbhoom.
" Purneah.
" Sylhet.

In conformity with the provisions of Circular Order No. 26, dated 18th August 1864, issued by the High Court of Judicature, you are hereby appointed to the office of Pleader in the Zillah Judge's Court and Principal Sudder Ameen's Court of ———; you will not be liable to be removed from your situation so long as you may conduct yourself with propriety, and discharge your duty with zeal and integrity under the Rules which are now or may hereafter be in force.

Circular, No. 1.

DATED, CALCUTTA, THE 8TH FEBRUARY, 1865.

Mr. Justice Trevor.

† *Vide* Government Circular, No. 526, dated 26th January, 1865.

In continuation of the late Sudder Court's *Circular Order, No. 29, dated the 2nd December 1859, all Judicial Officers are hereby informed that the Government has ruled† that, in places where the Railway Companies have introduced

---

* CIRCULAR, No 29.

DATED FORT WILLIAM, THE 2ND DECEMBER, 1859.

I am directed by the Court to forward to you, for your information and for communication to the Officers subordinate to you, the accompanying copy of an Order of the 9th ultimo passed by the Lieutenant-Governor in modification of Circular Order, No. 36, dated 6th August, 1856, regarding the rate of travelling allowance to be drawn by Ministerial and Police Officers travelling by Railway when on duty.

(Copy.)

Order.—A Ministerial Officer, Police Officer, or other subordinate Officer travelling on duty, who is entitled, under the circumstances, to draw travelling allowance reckoned by mileage, shall receive when travelling by Railway, in lieu of mileage rate, the actual cost of his Railway ticket.

An officer, having a salary of 50 Rupees a month and upwards, will be entitled to a second class ticket, and less than that sum to a third class ticket.

the use of the new "intermediate" class of carriage, Ministerial Officers drawing less than 50 Rupees per mensem, shall be allowed to travel in that class instead of in third class carriages.

Circular, No. 2.

DATED THE 13TH FEBRUARY, 1865.

Mr. Justice Trevor.

The Court request that Statements in the form hereto annexed, may be submitted to them as soon as possible, and that these Statements be henceforth considered as *annual* Statements.

Statements A. and B. should show the information regarding stamp fees and the expense to Government for each description of Court separately.

(For A. Form, see Circular Order, No. 12, dated 23rd March, 1866.)

B.

Cost to Government of the Civil Courts of the different grades of Zillah for the year 186

1	2	3	4	5	6
Name of Court.	Salary of Presiding Officer.	Establishment.	Salary of Civil Court Ameens.	Total cost of Civil Courts, being aggregate of Cols. 2, 3, & 4.	REMARKS.

Circular, No. 3.

DATED CALCUTTA, THE 7TH MARCH, 1865.

Mr. Justice Trevor.

The Court circulate, for general information and guidance, the accompanying copy of a letter, No. 1257 of the 1st instant, from the Secretary to the Government of Bengal, exempting Prince Feroze Shah, of the Mysore family, from personal attendance in the Civil Courts of Lower Bengal.

No. 1257.

DATED, FORT WILLIAM, THE 1ST MARCH, 1865.

To the Registrar of the High Court.

SIR,—I am directed to request that, with the permission of the Honorable Judges of the High Court, you will be so good as to include the name of Prince Feroze Shah, son of Prince Golam Mahomed, of the Mysore family, in the list of persons who have been exempted from personal attendance in the Civil Courts, under the provisions of Section 22, Act VIII. of 1859.

Circular, No. 4.

DATED, CALCUTTA, THE 31ST MARCH, 1865.

Mr. Justice Trevor.

With reference to para. 9 of Circular Order, No. 10 A, dated 26th April last, in which it was intimated that the salaries of Nazirs of Zillah Judges' Courts had been fixed at Rs. 50 per mensem, the Lieutenant-Governor of Bengal has been pleased,* on the recommendation of the Court, to raise the salaries of the Nazirs of the Judges' Courts in the 11 Districts named on the margin† from 50 to 75 Rs. each.

* Government letter, No. 1584, dated 14th March, 1865.

† Backergunge. Bhaugulpore. Dacca. Dinagepore. Hooghly. Midnapore. Mymensingh. Rungpore. Sylhet. Tipperah. 24-Pergunnahs.

2. There will thus be two grades of Nazirs: one drawing Rs. 75, and the other Rs. 50 per mensem: but it must be distinctly understood that the higher salary is not capable of transfer to any other district than the eleven districts for which it is sanctioned, as it has reference to circumstances peculiar to those districts which are larger and more important than other Zillahs, and entail on the Nazirs duties of a more onerous and responsible nature than those devolving on similar Officers elsewhere.

(See, in continuation, Circular Order, No. 5, dated 28th February, 1866.)

Circular, No. 5.

DATED CALCUTTA, THE 31ST MARCH, 1865.

Rescinded by Circular, No. 24, dated 19th June, 1866.

Circular, No. 6.

DATED CALCUTTA, THE 6TH APRIL, 1865.

Mr. Justice Trevor.

Several instances having lately occurred in which the instructions of Government, circulated by the late Sudder Court on the 30th October, 1840, (No. 3888) have been overlooked, Judges and Magistrates of Districts are reminded that Public Officers are prohibited from forwarding to Government representations from their subordinates relating to the personal services of the latter; the Public Post being the most natural and proper means through which persons, desirous of bringing their claims prominently to notice, may carry their wishes into effect.

Circular, No. 7.

DATED CALCUTTA, THE 8TH MAY, 1865.

To Judges of Courts of Small Causes in the Mofussil.

Mr. Justice Trevor.

The Court request that the Returns be submitted, with as little delay as possible, in the same form and of the same nature as those submitted for the month of April, distinguishing between suits regarding claims for more than 20 Rupees, and those for 20 Rs. and less.

Circular, No. 8.

DATED CALCUTTA, THE 13TH MAY, 1865.

Mr Justice Trevor.

It is hereby stated, for the information of all Zillah Judges and Judges of Small

Cause Courts, that the Government has ruled that, by the expression "Controlling Officers" used in paras. 2 and 4 of the Resolution of the Government of India, in the Financial Department, dated 21st December last,* it was intended to denote Judges of Zillahs and other Controlling Officers, whose counter-signature has hitherto been accepted, under standing Rules, as authority for passing contingencies within their jurisdiction.

* Appended also to Circular Order from Accountant General, Bengal, dated 23rd December, 1864, No. 3, at page 30 of the *Bengallee Gazette* of the 10th January, 1865.

2. The present construction, it will be seen, introduces no change in respect to the *authority* under which contingent charges are passed; which, in the case of the regular Courts of a District, will continue to be the Zillah Judge, and, in that of the Small Cause Courts, the High Court. The only changes effected by the new system are, 1*st*, the necessity for an "abstract of the bill," besides the bill in detail, which abstract may be sent every month for payment at once, without pre-audit, to the Treasury Officer at the same time that the bill *itself* is sent for counter-signature to the Zillah Judge, or the High Court, as the case may be; and the said Judge or Court will forward it after counter-signature to the Accountant-General; and 2*ndly* (for the very purpose of rendering the *monthly* pre-audit unnecessary), the "general sanction" of the Zillah Judge, or of the High Court, must be taken *at the beginning of each year* to the scale of contingent expenditure for that year. This general sanction is equivalent to a pre-audit, and must be applied for by the regular Courts to the Zillah Judge, and by the Small Cause Courts to the High Court.

Circular, No. 9.

DATED CALCUTTA, 16TH MAY, 1865.

Mr. Justice Trevor.
" " Loch.

The Court are pleased to determine that, whenever copies of judgments are produced as exhibits in any suit before any Civil Court,

they shall not be received unless they be authenticated copies of the original judgments. No copy of a translation of a judgment should be received as documentary evidence in any Civil suit, whenever the original judgment is forthcoming, and a copy of that judgment can be obtained.

Circular, No. 10.

DATED CALCUTTA, THE 19TH MAY, 1865.

Mr Justice Trevor

As, from certain irregularities that have recently been brought to their notice, the Court believe that plaints presented in Civil Courts, are not examined without delay, and either registered (Section 38,) or dealt with in one of the modes described in Sections 29, 30, 31, 32, 34, 35, Act VIII. of 1859, and Sections 3 and 4, Act XXI. of 1861, but are for some time allowed to remain neglected by the Judge, before whom they have been presented; the Court think it necessary to remind all Civil Judges of the extreme importance of complying without delay with the provisions of the law above quoted.

2. No plaint should ordinarily remain unregistered for more than one day, for it is obviously the duty of every Judge to take up at latest on the day following their presentation all plaints filed in his Court. If such a practice is not rigidly observed, the Court can have no confidence that in other respects the procedure laid down in Act VIII. of 1859, is acted up to. Such an irregularity cannot be too strongly condemned; for not only does it tend to encourage corruptness among the Court Amla, but it causes deception by misrepresenting the files, which should be correctly exhibited on the statements periodically submitted to the Court.

3. The Court therefore, in reminding Judges of the existence of such irregularities, desire to record their determination to adopt the severest possible measures, not only towards their repression, but to signify their extreme displeasure at the conduct

of any Officers who, after this warning, may neglect to conform to the law which recognises no delay in such simple matters of form.

4. The Court rely upon the exertions of the superior local Courts to check such irregularities by a strict supervision over the proceedings of their subordinates, such as is afforded to them as Courts of Appeal, or in visits of inspection enjoined by Circular Order No. 15, dated 14th May last.*

Circular, No. 11.

DATED CALCUTTA, THE 12TH JUNE, 1865.

Mr. Justice Trevor.

As it is very undesirable for the interests of the public service that Judicial Officers should hold appointments in districts in which they are *either directly or indirectly* interested in land, and as, notwithstanding the endeavours made by the Court to prevent them, the Court have reason to believe that such appointments are very frequent, the Court, with the approval of the Lieutenant-Governor, are pleased to direct that every Uncovenanted Civil Judge shall, without delay, furnish a Certificate in the form hereto annexed, and that this shall be repeated every year and be reported in the Annual Report submitted by the Judge of the District.

2. A copy or translation of each Certificate, according as it may have been made in English, or in the Vernacular, should be forwarded to the High Court *before* the 31st July next at *latest*.

3. The Court take this opportunity of warning all Civil Judges of the Uncovenanted Service that, in the event of any of them being inadvertently appointed to a district in which he may be directly or indirectly interested in land, it will be the duty of such Officer to represent the same to the Court, in order

* *i. e.* May 1864.

that their Special Orders may be obtained. The Court will not fail to mark their severe displeasure at any disregard of this obligation.

Form of Certificate.

Zillah.	Nature of the property and of the interest held therein.	Whether held personally or through or by some relation or some connection by marriage or other individual	Date on which this interest was acquired.

Circular, No. 12.

DATED CALCUTTA, THE 23RD JUNE, 1865.

To all Judges of Small Cause Courts.

Mr. Justice Trevor.

The Court are pleased to direct that, whenever a Judge of a Small Cause Court presides over more than one Court, he shall submit his Returns, whether monthly or annual in such a manner as to show distinctly the work of each Court in which he holds sittings.

Circular, No. 13.

DATED THE 26TH JUNE, 1865.

Rescinded by Circular, No. 24, dated 19th June, 1866.

Circular, No. 14.

DATED CALCUTTA, THE 7TH JULY, 1865.

Mr Justice Trevor.

The Court are pleased to direct that every judgment recorded by a Judge, sitting as an Appellate Court under Act X. of 1859, shall invariably be communicated to the Court of first instance through the Collector of the district, as it is a matter of the utmost importance that the Collector, as the chief executive authority in a district, should be kept fully informed of the manner in which his subordinate Deputy Collectors discharge the duties committed to them.

2. The Court presume that a similar practice obtains among Sessions Judges regarding Criminal appeals.

Circular, No. 15.

DATED CALCUTTA, THE 28TH JULY, 1865.

Mr. Justice Trevor.

An instance having been reported to the Court in which a Judge allowed the salary of a particular appointment on his Establishment to be drawn by an Officer who did not hold or conduct the duties of that appointment, the Court are pleased to remind all Civil Judges that such a practice is altogether irregular and directly opposed to the orders of Government, which have created certain appointments with fixed salaries. No deviation from these orders can be permitted without special sanction, and if any irregularities of the nature above noticed exist, they should at once be put an end to, the Court being informed of the fact.

Circular, No. 16.

DATED CALCUTTA, THE 4TH AUGUST, 1865.

Mr. Justice Trevor.

The Court are pleased to notify that Civil Courts should be closed for the Dusserah vacation only on the dates specified in the list of holidays attached to Circular, No. 35, dated 19th December last.

Circular, No. 17.

DATED CALCUTTA, THE 24TH AUGUST, 1865.

The Offg. Chief Justice.

The following Rules are circulated by the High Court, at the request of the Lieutenant-Governor of Bengal, for the guidance of Judicial Officers of every grade in testing the qualifications of candidates for ministerial employment in Mofussil Offices. The Rules should be circulated throughout every District, and their observance on all Officers should be strictly enforced.

2. Zillah Judges are requested to report on the working of these Rules in their Annual Reports.

3. The Government Resolution of the 30th January, 1856, alluded to in Rule 1st, is re-produced for easy reference.

Orders for the Admission of Candidates for Ministerial Employment in Mofussil Offices.

No Apprentice or Umedwar shall be admitted to work in any Mofussil Office, except in conformity with the Government Resolution of 30th January, 1856. The employment of Apprentices, without the express and formal sanction of the Head of the Office, is absolutely prohibited.

2. Whenever a vacancy occurs, or is about to occur, either in an apprenticeship, or in a paid appointment, a notice of the fact should be suspended in some prominent place in the Office, and a date, which shall not be less than 15 days after the issue of the notice, shall be fixed for filling up the vacancy.

3. No person shall be appointed an Apprentice, whose age exceeds twenty years.

4. The number of Apprentices shall not exceed the following scale:—

In the Office of Zillah or Additional Judge, 5 Apprentices.
In the Office of Judge of a Small Cause Court or Principal Sudder Ameen, ... 3 „
In the Office of Sudder Ameen or Moonsiff, or Registrar of a Small Cause Court, .. 2 „

5. If, on the expiry of an apprenticeship of five years, any Apprentice has failed to obtain a paid appointment, he shall not be retained in the Office in any capacity.

6. On the day fixed for filling up a vacancy, the Head of the Office shall see and examine all applicants and their certificates, and record a proceeding stating that he has done so, noting in detail the claims of the three or four more eligible candidates, and giving his reasons for the selection ultimately made.

7. This proceeding, together with the applications, and any copies of certificates filed, &c., should be made into a regular record, and be available for reference in case of any appeal being made against the appointment.

8. All appointments of Rs. 10 a month or upwards, made by a Moonsiff, Sudder Ameen, or Principal Sudder Ameen, should be reported monthly to the Zillah Judge for information, in accordance with the laws* and orders† in force, and the Judge should fill up, with his own hand, the column reserved for remarks, sending a copy of such remarks for his subordinate's guidance.

* Section 12, Act XXV. of 1837.
† Circular, No. 178, dated 25th February, 1842.

9. The above orders are to be applicable not only to permanent appointments, but also to acting appointments, vacant or likely to be vacant for three months or upwards.

10. All Apprentices who have not been appointed in conformity with the Government Resolution of the 30th January, 1856, all in excess of *five* in any Judge's Office, or of *three* in any Small Cause Court Judge's or Principal Sudder Ameen's Office, and of *two* in any Sudder Ameen's or Moonsiff's Office, and all who have been employed as Apprentices for more than five years, are to be forthwith removed.

GOVERNMENT OF BENGAL

(RESOLUTION.)

GENERAL.—EDUCATION

Fort William, the 30th January, 1856.

Read again a letter from the Director of Public Instruction, dated the 5th ultimo, enclosing a Memorandum drawn up by Mr. Pratt regarding the system of employing Apprentices in the Government Offices in the Mofussil

Read a letter addressed to the Board of Revenue on the 31st ultimo, forwarding the above

Read a communication from the Board, dated the 12th instant.

The Lieutenant-Governor regards the object which Mr Pratt has in view as one which it is most desirable to obtain, but he is not at present prepared to go further for the purpose of attaining it than to prescribe a general rule that no Apprentice shall be admitted into any Office without the express sanction of the Head of the Office, to be recorded in a Register to be kept for the purpose. This Register shall record the name and the age of the Apprentice; the kind and extent of education which he has received; to which of the Amlah in the Office he is related, or by which of them recommended; with any further particulars that it may seem desirable to the Head of the Office to record. Every Apprentice admitted shall likewise receive a Perwannah signed by the Head of the Office, specifying that he is admitted as an Apprentice.

The results to be secured by the above Rule, will necessarily depend much upon the manner and the spirit in which it is worked by the several Heads of Offices. The Lieutenant-Governor desires, therefore, to signify his hope and expectation that every Officer will feel himself under a strong obligation to evince a real interest in regulating by means of the Rule the admission of Apprentices into the Public Offices, and that in every instance the Head of the Office will satisfy himself, by

personal examination and enquiry, of the respectability of the candidate for admission, and also that he possesses a fair extent of education.

The Lieutenant-Governor would further inculcate upon Officers the propriety of encouraging the acquirement of English by giving a preference to candidates who have received an English education, if in other respects they are as eligible as other candidates who do not know English.

The Lieutenant-Governor thinks it desirable, however, on this point to leave a full discretion in the hands of the Local Officers, informing them merely of the general views and wishes of Government, and trusting to them to give effect to them to the utmost extent that they may deem advisable and right with reference to local circumstances or individual claims. Irrespective of the general reasons which make the Lieutenant-Governor at all times desirous to fetter, as little as possible, the discretion of the Local Authorities in matters of this kind, he is strongly of opinion that in this particular matter, it would neither be practicable nor wise to attempt to act altogether independently of, and without reference to, the Head Native Amlah.

As a general rule, the Lieutenant-Governor considers it a proper and a judicious proceeding that the opinion of the Serishtadar of an Office should be consulted in regard to the entertainment of new Amlah, including Apprentices, in an Office for the correct, punctual, and honest working of which he is directly responsible, and the Lieutenant-Governor is satisfied that in the great majority of cases, if the Covenanted Head of the Office exhibits a true interest in the working of his Office, and at the same time evinces a proper consideration and respect to the principal Uncovenanted Servants in the Office, he will receive cordial support at their hands, and will find them just as anxious as he is himself to introduce none but respectable and educated young men into the Office. The Commissioner of Revenue and Circuit will take occasion, on visiting the different Stations of their Divisions, to satisfy themselves that proper attention is

paid by the District Officers to the admission of Apprentices into their Serishtahs.

Order.—Ordered, that a copy of these remarks be sent to the Board of Revenue for information and communication to the Officers subordinate to them.

Ordered also, that a copy of this Resolution and of the papers above cited, be sent to the Commissioners of Circuit for distribution to the Officers subordinate to them.

Circular, No. 18.

DATED CALCUTTA, THE 25TH AUGUST, 1865.

The Offg. Chief Justice.

The Court have reason to believe that the Registers kept up in the Offices of Zillah Judges vary very considerably; and as it is a matter of importance that there should be uniformity in this respect, and that only such Registers as are absolutely necessary should be retained, the Court are pleased to direct that a report be submitted by the Judge of each district, stating the number and nature of the Registers kept up in his Office, and the order by which each is retained. The opinion of each Judge should also be expressed regarding the necessity for retaining all these Registers; whether any, and if so, which should be abolished, and whether they should be in any way modified or added to.

2. The Court request that this report be submitted as soon as possible, in order that they may be able to give effect from the commencement of the ensuing year to any changes that may be deemed necessary.

(No action was ever taken on the returns to this Circular.)

Circular, No. 19.

DATED CALCUTTA, THE 28TH AUGUST, 1865.

To all Judges of Small Cause Courts.

The Offg. Chief Justice.

The Court request that Judges of Small Cause Courts will submit a Return of all cases instituted from the commencement of the current year to the close of the Civil Courts on account of the Dusserah vacation, distinguishing suits for sums above 20 Rs. from those for 20 Rs. or less.

The Court will expect that these Returns will be posted before the Office establishment of any Court is dismissed for the vacation, so that they may reach the High Court during the vacation.

Circular, No. 20.

DATED CALCUTTA, THE 4TH SEPTEMBER, 1865.

The Offg. Chief Justice.

The Court, having become aware of the existence of a diversity of practice in different districts in regard to the transmission of copies of decrees and certificates under Section 286 of the Code of Civil Procedure, some Judicial Officers franking the envelopes on the Public Service, whilst others send them post paid, are pleased to direct that the practice, wherever it may prevail, of forwarding such communications *on the Public Service*, be forthwith discontinued. Whenever a Court in one district may transmit a certificate and decree for execution in a subordinate Court of another district, the transmitting Court shall require from the party desiring its assistance stamps sufficient, not only for paying the postage to the Chief Civil Court of the district, but also for forwarding the envelope to the subordinate Court in which the decree is to be executed; and shall enclose these last in the letter giving cover to the certificate and decree.

2. Under this ruling, the transmission of Civil processes to the Sheriff of this Court on its original side, as well as the return of such process after service, must no longer be effected at the public expense. All Civil Judges are accordingly requested, when sending notices or summonses to the Sheriff, to send them "Post paid," and to provide that Officer at the same time with a sufficiency of postage stamps, to enable him to return those processes, after service, to the Court from which they issued.

Circular, No. 21.

DATED CALCUTTA, THE 5TH SEPTEMBER, 1865.

Rescinded by Circular, No. 24, *dated* 19*th June*, 1866.

Circular, No. 22.

DATED CALCUTTA, THE 13TH SEPTEMBER, 1865.

Mr. Justice Trevor.

The Court, having reason to believe that considerable want of uniformity exists in the Civil Courts of the Mofussil in regard to the taking of stamped receipts from suitors for money repaid to them from sums in deposit, request the attention of Judges to the provisions of Act X. of 1862, Schedule A, Section 61,* which should be strictly observed, as well in the chief as in the subordinate Courts, in all cases in which the sum paid exceeds 20 Rupees.

* "Receipt or discharge given for the payment of money, or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, exceeds 20 Rupees." PROPER STAMP—1 Anna.

Circular, No. 23.

DATED THE 14TH SEPTEMBER, 1865.

Forwards an extract of a letter (from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Judge of Dinagepore,) No. 3289, *dated* 15*th September*, 1865, *for the information and guidance of all Zillah Judges and Principal Sudder Ameens, who are hereby directed to carry out the instructions of the High Court as therein contained.*

Para. 2.—With reference to the opinion expressed in your 2nd para., that none but the legitimate peons of each Court should serve the processes issued from such Court, I am to inform you that it appears to the High Court that *every Court, acting as an original Court, should issue its own processes;*

but that appellate Courts should issue notices, &c., on the parties concerned *through* the original Court. This is the practice laid down both by the present* and the proposed† Code of Procedure, though, under the draft of the amended Act, appellate Courts may issue their own notices if it be convenient. This plan is less expensive to suitors, than if evey Court issued direct its own process. Act V. (Bengal Council) of 1863‡ does not interfere with the Code of Civil Procedure in any way, but leaves it just as it stood.

* Section 345, Act VIII. of 1859.

† Section 559 of the draft law.

‡ *Vide* Section 2.

Circular, No. 24.

DATED CALCUTTA, THE 15TH SEPTEMBER, 1865.

Mr. Justice Trevor.

I am directed to request that you will be so good as to report, for the information of the High Court, the mode in which the Rule contained in para. 3, Circular Order, No. 10 A, dated 26th April, 1864, regarding the levy of *tulubana*, as applied in your Court, that is to say, whether, in every case in which the defendant or witnesses reside in one locality, separate summonses are issued for each defendant and for every witness, or whether for defendant and witness one summons is issued; and on the latter supposition, what rate of tulubana, calculated according to distance, is charged, that is, whether a full rate is charged for each witness or defendant mentioned in the process, or a full rate for one, and half rate for the others, or on what principle the charge is made.

The Court desire this information, with a view to lay down certain Rules for the purpose of ensuring uniformity.

Circular, No. 25.

DATED CALCUTTA, THE 15TH SEPTEMBER, 1865.

Mr. Justice Trevor.

As the High Court have reason to believe that the accounts required by Act XL. of 1858, Section 16, from the public Curator and parties holding Certificates of Administration under Section 10 of that

Act have not been furnished annually, the Court are pleased to call the attention of all Judges to the provisions of that law, and to point out that, if these accounts have not heretofore been regularly furnished, they should be demanded without delay. The Court expect that, for the future, all parties holding such Certificates will be required to furnish them regularly; and that if they fail to do so, they be dealt with under Sections 21 and 22 of the Act.

2. The provisions of Section 17 of the Act should also be most carefully attended to.

3. Attention is also called to the requirements of Heading 3, Schedule B of Act X. of 1862, which the Court are informed is not generally acted up to. Its provisions should be invariably strictly enforced, so that the Government is not defrauded of its Stamp Revenue.

(See in continuation Circular Order, No. 19, dated 16th May, 1866.)

Circular, No. 26.

DATED CALCUTTA, THE 16TH NOVEMBER, 1865.

Mr. Justice Trevor.

In submitting their Annual Reports, the Court request that all Zillah Judges will describe fully, *after careful personal enquiry*, the state of their record-rooms, and in what manner the Court's Orders, noted in the margin, have been carried out, as the Court have regretted to find that in some instances records have not been in the state in which they have been represented to be, owing to the inefficiency and neglect of Record-keepers, and the undue reliance placed on their reports by Zillah Judges.

Circular Order, dated 3rd March, 1852, No. 167
" " 22nd June " " 181
" " 30th June " " 182
(Paragraph 2)
" " 4th July, 1853, " 13
" " 26th August " " 18

The Circulars of the late Sudder Court above referred to, are reproduced here for easy reference.

CIRCULAR, No. 167.

DATED THE 3RD MARCH, 1852.

To the Zillah and City Judges in the Lower Provinces.

The Court, having had under consideration Circular Orders, Nos. 81 and 112, dated 1st February, 1833, and 1st August, 1834, which contain the present Rules regarding the destruction of old records, are of opinion that there are numerous papers connected with the entire record of a Civil suit, the retention of which, after final decision, (having no bearing upon the merits of the case,) is superfluous, and only tends to overburthen the record-room and entail both labour and expense in their preservation.

2. It appears to the Court that, as suggested by Mr. Hathorn, Judge of Sarun, in his letter, No. 114, dated 24th July, 1831, the papers of a Civil suit may be divided into two *Nuthees* (A and B) *as they are filed.* The one including papers destined for preservation for 12 years, and the other for destruction after the expiration of one year from the date of the final decision. The former (A.) would, of course, comprise all papers and documents required either *in appeal*, or for future reference in subsequent suits bearing upon the identical property, or referring to the same parties, and would include

Nuthee (A).

1. The original list of papers.
2. The entire pleadings.
3. All documents filed by parties, including *razeenamahs* and *solehnamahs*.
4. All the oral evidence taken in Court.
5. The *Ameen's* report and map on local enquiry.
6. Petitions of third parties.
7. Arbitration Award.
8. The Court's final decree.
9. The decree-holder's application for execution, with Schedule of property.
10. The Court's final order in execution of decree.

Note.—"*Sooruthals,*" in *ex-parte* cases, need not be preserved, because the vernacular decree itself should contain all such particulars.

Certificates, in regard to the state of documents when filed, are also considered useless, *after* a final decision in the *appellate* Court has been passed.

Petitions of claimants in execution, after final execution of the decree, are, for the same reason, deemed superfluous.

Papers relating to attachment, under Regulation II. of 1806, before or after the decision, in like manner need not be retained after the final award and execution of the decree.

So also copies of *Collector's proceedings* under Section 30, Regulation II. of 1819, (the originals of which are forthcoming in the Collector's Office) need not be kept.

Nuthee (B.)

Is intended to contain papers exclusively appertaining to the Court's *procedure*, having no reference to the *merits of the case*, which, after final decision in the remoter Court of appeal, or after the time for preferring a regular or special appeal has passed away, cannot be of the slightest use, *viz.*—

1. *Notices* to parties, with their return.
2. "*Vakalutnamahs*" (in which pleader's fees have been paid).
3. "*Subpœnas*," "*Sooruthals*," &c.
4. Preliminary proceedings of the Court, under Sections 10 and 12, Regulation XXVI. of 1814.
5. Interlocutory proceedings of the Court.
6. *Ameen's* papers (*excepting* final report and map).
7. "*Bywustahs*" and "*Futwas*" (after registration in the Office,) &c.

Note.—It is not intended that any papers, such as "*chelans*" *or receipts for money* paid in execution of decrees, appertaining to the *Judicial treasury*, or the *receipts for original documents returned* to parties after decision, should be destroyed.

These vouchers should be retained for 12 years, which period would bar any subsequent suit which might be preferred by parties connected with such vouchers.

3. The Court, therefore, direct that suits instituted from the 1st of July next, be divided as above shown, and that papers appertaining to the *Nuthee* A. be destroyed after 12 years from the date of decision, in the manner indicated in the Circular Orders above referred to, while those of *Nuthee* B. should be kept only for one year.

4. The *Zillah* Judges will direct their Record-keepers, as they have leisure, to divide the decided cases now in the record-room upon the same principle, in order that the papers in them not to be kept beyond a year, may be destroyed with as little loss of time as possible. The progress made in the destruction in this manner of old and useless records, should be noticed in the Annual Reports.

5. Special reports need not be made of the destruction of records, when carried out strictly in pursuance of the instructions in paragraph 3 of this letter.

CIRCULAR, No. 181.

DATED THE 22ND JUNE, 1852.

To the Zillah and City Judges in the Lower Provinces.

In continuation of Circular Order, No. 167, dated 3rd March last, the Court direct the destruction, after one year, as ordered in regard to *Nuthee* B., of the following papers of Miscellaneous cases :—

1. Monthly and Annual Statements of lower Courts.
2. Monthly Returns of Documents registered by *Cazees*.
3. Monthly Statements of the *Ferosh Ameens*.
4. Petitions for review of judgment which have been rejected.
5. Summary Appeals from orders of lower Courts, rejecting or dismissing original suits on any default.
6. Petitions of appeal preferred from interlocutory orders in regular suits.
7. *Roobukarees* of the lower Courts forwarding notices and proclamations, &c.
8. *Roobukarees* from other districts forwarding notices, &c.
9. *Roobukarees* from lower Courts calling for cases for reference which have been disposed of and filed in the Record Office.
10. Petitions of Plaint adjusted by *razeenamah*.
11. Petitions of Appeal remanded for re-trial, copies of which have been filed in the cases.
12. All petitions of appeal from orders imposing fines.
13. Petitions under Act XVI. of 1845 for re-admission of appeals.

The final orders in all these cases should, of course, be kept for record.

14. Petitions under Act IX. of 1839, and Sections 5 and 12, Regulation XXVIII. of 1814.
15. Petitions of Insolvents, under Section 11, Regulation II. of 1806.
16. Receipts and Proceedings from Sudder Dewanny Adawlut and Special Commissioner.

17. Proceedings and Reports from Principal *Sudder Ameens*, *Sudder Ameens*, *Moonsiffs*, *Nazirs*, and other functionaries.
18. Proclamations from the Collectorate regarding sales, *butwarrahs*, transfer of names, settlement of *Abkarree*, &c.
19. Ditto from Magistrates regarding *ferries*.
20. All applications for leave ; ditto from candidates for employment.
21. Applications for transfer of suits.
22. On re-consideration, the Court direct the transfer of No. 6 *Ameen's* papers (" excepting final report and map") from Schedule B. to Schedule A. of the above Circular Order, *i. e.*, to the list of papers to be preserved for 12 years.

CIRCULAR, No. 182.

DATED THE 30TH JUNE, 1852.

To the Civil Judges in the Lower Provinces.

Doubts having been entertained by some of the *Zillah* Courts as to the intent and meaning of the Court's Circular Order, No. 167, of the 3rd March last, I am directed to communicate, for your information and guidance, that records of cases which have been already 12 years in the Office, are not to be wholly destroyed, but a selection is to be made from them of the papers, which would have had to be preserved under the Circular Orders, Nos. 81 and 112, of 1st February, 1833, and 1st August, 1834, respectively. These are to be kept, and all the others destroyed as soon as can be done.

2. I am further directed to observe that the division into *Nuthees* A. and B. of the papers of cases which have been more than one, but less than 12 years in the Office, is to be proceeded with as leisure will permit, so that those in B. may at once be destroyed in cases in which one year has elapsed from the date of the final decision. Those in A. should be kept till the end of the 12th year from that date, when, such papers as the above Circulars indicate for perpetual retention being extracted, the remaining papers may be destroyed.

CIRCULAR, No. 18.

DATED THE 26TH AUGUST, 1853.

No. 81, 1st February, 1833.
No. 112, 1st August, 1834.
Para. 1 No. 182, 30th June, 1852.

I am directed by the Court to inform you that the Circular Orders, noted in the margin, are hereby superseded.

In future you and the Courts subordinate to you, will be guided by Circular Orders, No. 167 of 3rd March, 1852, No. 181 of 22nd June, 1852, and No. 182 of 30th June, 1852, paragraph 2, with regard to the preservation and destruction of the records which have not been 12 years in your Office, and with regard to cases which have been more than 12 years in your Office, everything will be destroyed, except the final decision and the original documents (or copies of such documents filed by the parties), on which the decision was based. This order will be applicable to the records of the Courts of the Moonsiffs, as well as of those of the higher judicial Officers.

2. In destroying records, the Court particularly direct that effectual care be taken to have them burnt under such precautions as will make it certain that the order has been duly carried into effect.

CIRCULAR, No. 13.

DATED THE 4TH JULY, 1853.

Sir R. Barlow, Bart.
J. R. Colvin.
J. Dunbar.
H. T. Raikes,
} Esqs.

I am directed by the Court to forward to you copy of a letter from the Judge of Backergunge, No. 36, of the 25th ultimo, and of the reply thereto, No. 1072, of this date, in order that the plan authorised in Backergunge, may also be followed in arranging the records of your Court under the orders now in course of execution on that subject.

No. 36, *from the Judge of Backergunge to the Register, Sudder Dewanny Adawlut, Fort William, dated the* 25*th June,* 1853.

I was called upon by the Court, in their Resolution No. 475, of the 28th March last, to report the progress made in the arrangement of the records of my Office according to the new Rules as circulated by the Court in their letter No. 5, of the 3rd March, 1852.

2. So little had *then* been done that my report would have gone up nearly blank. I thought it best, therefore, to delay replying to the Court's Resolution, till I could make a report of *some* progress. At the same time I may explain why so little was at first effected, and how I have been able to make greater progress latterly.

3. The extra Mohurirs were appointed on the 17th November, 1852: their plan was at first to prepare a list of every paper to be burnt, and a list of every paper to be retained. The former was placed weekly before the Judge, who then ordered the destruction of the papers, and the latter was placed with the record of the paper intended to be preserved. For some time, or to speak more particularly, up to the 1st March last, it did not occur to me that both the lists were equally useless.

4. Every nuthee has a list appended to it of every paper forming the record. In this list I instructed the Mohafez to note, by some distinguishing mark, the papers extracted from each nuthee for destruction. Thus the object of the two separate lists was accomplished at once. The old list sufficed to show the papers of the original record, as well as those taken from it, to be burnt, which is all that is required.

5. Since the introduction of this plan, the business has proceeded rapidly, and I trust the annexed paper, showing what has been accomplished up to this date, will be deemed satisfactory.

6. What remains to be done will, I expect, be completely accomplished by September next, up to which period I have applied for the sanction of Government for the retention of the extra Mohurirs.

No. 1072.

To the Judge of Backergunge.

Sir R. Barlow, Bart.
J. R. Colvin,
J. Dunbar,
H. T. Raikes,
} Esqs.

SIR,—The Court, having had before them your letter No. 36, of the 25th ultimo, and its enclosure, direct me to inform you that they consider the progress made under your direction, in the arrangement of the records of your Court, to be very creditable.

2. They would, however, wish that the papers *preserved*, and not those *destroyed*, should be noted on the old lists by some distinguishing marks of a kind which cannot be erased without much hazard of detection. This will obviously be preferable to noting the papers destroyed by a distinguishing mark, since such mark could readily be added hereafter on any occasion of the surreptitious abstraction of a paper. The erasure of marks, carefully made in the lists opposite papers *preserved*, would be much more difficult.

3. You will proceed on this plan in future, and you will also have all the papers preserved in the records already arranged, carefully noted on the old lists with the same mark that will be affixed to the papers preserved in the lists of records that still remain to be arranged.

Circular, No. 27.

DATED CALCUTTA, THE 20TH NOVEMBER, 1865.

Mr. Justice Trevor.

The High Court are pleased to direct that, for the future, whenever any Civil Court may find it necessary to commit any person to the Civil or Criminal Jail, the Warrant of Commitment shall be addressed to *the Officer in charge of the Jail* instead of to the Magistrate of the District.

Circular, No. 28.

DATED CALCUTTA, THE 25TH NOVEMBER, 1865.

To Judges of Small Cause Courts.

Mr. Justice Trevor.

The Court are pleased to circulate, for the information and guidance of all Judges of Small Cause Courts, an extract para. 3 from a letter from the Officiating Secretary to the Government of Bengal :—

Extract.

(2.) "The Lieutenant-Governor trusts that provision will be made in next year's Budget to meet this expenditure for the Court-house at Kooshtea, as well as for those at other Stations to which the Chowkeedary Tax may have been extended."

Circular, No. 29.

DATED CALCUTTA, THE 28TH NOVEMBER, 1865.

Mr. Justice Trevor.

The Court, having reason to believe that irregularities exist in the practice of the Civil Courts subordinate to them in regard to the deputation and appointment of peons to assist Civil Ameens, desire to draw attention to Sections 3 and 4, Act V. (Bengal Code) of 1863, from which it will appear that, except in special cases, none but regularly appointed and registered peons should be employed in the execution and service of processes. If it be considered at any time absolutely necessary that a peon should be attached to a Court Ameen, he should be selected out of the number borne on the Register. The special power conferred on Courts by Section 4, of employing other than such peons, should only be exercised under very exceptional circumstances, and then not without a formal record of the reasons for which it has been exercised.

Circular, No. 30.

DATED CALCUTTA, THE 7TH DECEMBER, 1865.

Mr. Justice Trevor.

It is with extreme disappointment that the Court are constrained to record their belief that, notwithstanding their constant endeavours to ensure a strict compliance with the law regarding the proper record of evidence and a proper trial of suits, many Civil Judges still neglect their duties.

2. In a recent trial the presiding Judge recorded the following remarks:—

"The fact seems to be that his (appellant's) witnesses were in attendance for a long period, during which he could not succeed in getting them examined, although the case was many different times so far on for trial that one or two witnesses were examined on each occasion; at last tired out, and the Mohurrum approaching, he prayed for a postponement, which was granted. On the case being subsequently taken up, his witnesses were not ready, and it was then at once decided against him.

"I think that the record exhibits so systematic a disregard of the law and of the orders of this Court as to amount to a complete defect in law in the investigation, and to mislead the appellant, who might reasonably have expected that the same loose practice, followed after the first appointment, would be followed after the second appointment, and that the witnesses would be taken any day. On that ground, I would remand the case to the first Court for a fresh trial.

"It appears that the case was first appointed for trial on 11th May, 1864. The defendant then applied for a postponement, and it was fixed for 20th idem. It was not taken up on that day, but witnesses were examined in driblets as follows:—

"On 26th May	..	2 persons.
"On 27th May	..	1 person.
"On 28th May	..	3 persons.
"On 30th May	..	1 person.
"On 2nd June	..	1 person.
"On 3rd June	..	1 person.
"On 4th June	..	2 persons.

"On the 9th June defendant presented a petition in which he stated that he had had thirteen witnesses continually attending from day to day; but that, owing to press of business in the Court, he had been unable to get more than three examined; and as the Mohurrum was coming on, he prayed for a fresh appointment after the Mohurrum. On that application the case was postponed to 23rd June. There is no record of its

being taken up on that day, and probably it was not taken up, but it seems to be admitted that the defendant's witnesses were not present. It was decided on 30th June. Both the Principal Sudder Ameen and the Judge refused to give defendant another opportunity of examining his witnesses. From the nature of the case, and the record of the evidence, it appears that the one or two witnesses examined each day, could not have occupied the whole or any considerable portion of those days. It is clear that, in the Court of the Principal Sudder Ameen, the law and orders which require that a case should be taken up in its turn at the appointed time, and then and there tried out or regularly adjourned for sufficient cause, are the merest dead letter. Evidently, a case is not tried on any particular day or days whatever, but evidence is taken piece-meal without the least regard to any system. It was bad enough when the witnesses were allowed to come dropping in at their convenience. But it is difficult to imagine how, when (as was asserted by petition, and not contradicted by the Court) the witnesses were present in a body, it could be arranged to take their evidence on scattered dates one or two at a time, unless, indeed, many suits being pending, it was thought fairest not to take all the evidence in any one case in one day, but evenly to distribute the evidence-taking power of the Court by taking, say, one witness in each case each day. Something like this seems to be the practice followed in the Court of this Principal Sudder Ameen. It is totally impossible that the whole mind of the Court should be given to each case every time a witness is examined, or that the impression can be retained in the memory. The result seems to be that in truth the evidence is merely taken from time to time in a formal way after the manner of affidavits; and on another day (sometimes after a considerable interval) the Court goes over the papers and decides upon the paper evidence. If that be so, the weight which we are accustomed to attribute to the opinion of the Court which hears the evidence, becomes a mere delusion and

snare, yet in this case the Pleaders on both sides have, in the most emphatic terms, asserted as of their own personal knowledge, obtained in the most recent cases, that to this day the practice above described almost universally prevails in the Mofussil Courts. And I can well believe that, if it is so in the Court of the Principal Sudder Ameen under the very eye of this Court, it may be so in Courts further removed from our observation. I have dwelt upon this case so particularly, because it has occured subsequently to the Circular of 13th October, 1863, in which such clear and particular directions were given on this subject as to leave no room for misunderstanding, and no pretext for disobedience; and because, if one-half of what is asserted by the Pleaders be correct (and I fear there is too much truth in it) there is ordinarily no such thing as a trial in the proper sense of the word in the Mofussil Courts, but only a system of leisurely collecting affidavits, and afterwards deciding on those papers."

3. The proceedings of the Court of first instance, thus detailed, are directly opposed to Rule 9 of the Court's Circular 31, dated 13th October, 1863, the terms of which are as follows:—

"After the examination of witnesses has commenced, the trial should be proceeded with, until all the witnesses on both sides have been examined; those of the party upon whom the *onus* of proof lies being examined first, and then those of the opposite party, and an adjournment of the hearing shall not be allowed, except for sufficient cause which shall be recorded. Particular attention is called to the last paragraph of Section 145, Act VIII. of 1859, by which it is provided 'that, if the summons shall have been issued for the final disposal of the suit, and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.' The same Rule is applicable after a day is fixed for trial." The Court, in again drawing the attention of all Civil Judges to the terms of that Circular, warn them that,

after this further notice, any transgressing Officer will render himself liable to immediate dismissal from Office; for the Court are determined to enforce their orders and the law; and they now feel that, without some severe example, this end cannot be attained.

4. The Court rely upon the lower Appellate Courts for reporting any instances in which the Courts of first instance have failed in their duty of carrying out strictly the provisions of Act VIII. of 1859.

Circular, No. 31.

This Circular was never issued. It was superseded by No. 1 of 1866.

Circular, No. 32.

DATED CALCUTTA, THE 19TH DECEMBER, 1865.

To all Judges of Courts of Small Causes.

Mr. Justice Trevor.
" " Loch.
" " Bayley.

The following Rule is laid down in lieu of Rule 8 of the *Rules passed by the late Sudder Court, on the 1st June, 1861, for the guidance of Small Cause Courts, which is hereby rescinded :—

* *By virtue of the powers vested in the Sudder Court, under Section 20, of Act XLII. of 1860, the following are laid down as the*

RULES OF PRACTICE FOR COURTS OF SMALL CAUSES.

I. On presentation of a plaint and verification, in accordance with Sections 25, 26, 27, and 28 of Act VIII. of 1859, the Court shall issue, under the seal of the Court, a Summons in the form prescribed in Schedule B of Act VIII. of 1859, which shall be numbered and dated of the day when issued, and shall set forth the names of the plaintiff and defendant, the cause of action and the amount sued for.

II. The Summons shall be served on the defendant seven clear days before the day on which the Court shall be holden at which the cause is to be tried, unless the Court shall otherwise order; but a Summons may be made returnable at a longer or a shorter date, in the discretion of the Court, with reference to distance or to any other cause

III. A receipt or plaint-note shall, on the filing of the plaint, be given to the plaintiff, containing the number of the Summons and of the suit in the Register Book, and no execution shall be issued, nor any money paid out of Court, except on production of the said receipt, or by order of the Judge.

NEW RULE 8.

An application for a new trial, under Section 21, Act XI. of 1865, when relating to any suit or case of an amount or value less than fifty Rupees,* should be made on plain paper; when the suit or case is not

Vide Act X. of 1862, Schedule B, Article 10, Exemption I.

IV. The cause of action shall be transcribed from the plaint into the Summons Book, and the substance of the cause of action shall be entered in the Register Book, both books shall be in the form hereunto annexed, and marked A and B.

V. No misnomer or inaccurate description of any person or place in any such Summons shall vitiate the same, if the person or place be therein described so as to be commonly known.

VI. The substance of the evidence, the judgment, and the decree, shall be entered in the Summons Book, as in form A given in the Schedule hereto annexed.

VII. When any order is made for the payment of any debt or damages, costs, or other sums of money by instalments, the same shall be payable at the Office of the Clerk, at such periods as the Court shall order; and if no order be made fixing the dates of payment of the instalments, then the first instalment shall become due at the expiration of one calendar month from the day of making the order, and every successive instalment at a like period of one calendar month from the day of the previous instalment becoming due; and after default in payment of any instalment, execution may be sued out for the whole amount then remaining unpaid, unless the Court shall otherwise order; provided that such execution shall not issue upon such default if the instalment or instalments then due shall be paid into Court at any time before execution is applied for.

VIII. *Rescinded as above.*

IX. On an application for a new trial being made, the mode of procedure prescribed by Section 378 of Act VIII. of 1859, for disposing of applications for reviews of judgment, shall be followed.

X. In cases in which the defendant has moved the Court for a new trial, and has deposited the sum decreed against him, as required by Section 12, Act XLII. of 1860, the Court shall detain the money till the new trial be granted, or till such other time as the Court shall order. In the event of notice not being given to the Court as aforesaid, or of the Rule being refused, the plaintiff may take the money out of the Court without further delay.

XI. If the Court be of opinion that a new trial should be granted, the plaintiff shall proceed to set his cause down for re-hearing within six days, unless some other time be granted by the Court, and in default the defendant shall be at liberty to withdraw his deposit. Should the new trial be granted, the order shall be made on such terms as to the payment of costs as the Court shall direct. If on the hearing of the second trial, the verdict is entered for the plaintiff, the judgment may be satisfied *pro tanto* out of the sum already deposited for debt and costs by defendant, with right of execution against the goods or person of the defendant for the amount payable by the defendant over and above the sum deposited.

XII. If on the hearing of the second trial, the verdict is entered for the defendant, he shall be at liberty to withdraw his deposit.

XIII. No warrant of execution or commitment shall be executed after the expiration of two calendar months form the date thereof: provided that second and successive warrants of execution may be issued by order of the Judge at the expiration of two calendar months from the date of each, on payment of the prescribed costs of execution by the party issuing out the same.

XIV. Every officer required to execute any warrant of execution, if he

less than fifty Rupees in amount or value, the application should be on Stamp paper, of the value of 8 annas (Article 9, Schedule B, Act X. of 1860).

Circular, No. 33.

DATED CALCUTTA, THE 22ND DECEMBER, 1865.

Rescinded by Circular, No. 24, dated 19th June, 1866.

Circular, No. 34.

DATED CALCUTTA, THE 23RD DECEMBER, 1865.

Mr. Justice Trevor.

The Court are pleased to require that all Zillah Judges will, as soon as possible, forward a Return, in the accompanying Form, of the original suits disposed of, and the Stamp duty levied on their institution, in the Courts subordinate to them, as well as in their own Courts, during the month of March 1865.

2. The object being to show the number and value of the suits instituted in relation to the amount of Stamp Revenue realized therefrom, with a view to determine whether the tax on litigation may not be increased, it is unnecessary to distinguish one Court in a district from another. The results in each Zillah should be combined and shown under the classified heads provided in the annexed Form supplied by the Government of India, care being taken that the information required in each column is duly and accurately supplied.

(See in continuation Circular Order, No. 7, dated 7th March, 1866.)

---

shall not have executed such warrant, shall return the same to the office of the Court at the expiration of one month from the date of the issue thereof; and every officer levying or receiving money by virtue of any process out of the Court, shall forthwith, or as soon after the receipt thereof as practicable, pay over the same to the Court.

XV. No person can be permitted to practice as a pleader in the Courts of Small Causes in the Lower Provinces unless he holds a diploma, or has passed the examination test for the higher or lower grades of pleaders in the Civil Courts.

XVI. With reference to section 20, Act XLII. of 1860, the forms in the *Schedule hereunto* annexed, are prescribed for use in the Courts of Small Causes.

* *(See for these forms Sutherland's Small Cause Court Rulings, &c.)*

Statement showing the Number of Original Suits disposed of in ——— during the Month of March, 1865.

1	2	3	4	5	6	7	8	9
Valuation of Cases.	Number of Suits.	Total value.	Average value.	Amount of Stamp Duty levied on institution of Suits.	Total cost.	Average cost.	Percentage of costs to value.	Remarks.
Suits in which the claim did not exceed Rs. 4								The number of suits divided into the total value, will give the *average value per suit* (column 4); and the number of suits divided into the total cost, will give the *average cost per suit* (column 7). The percentage of costs to value will, of course, show the relation of column 6 to column 3, and must be carefully calculated.
Above Rs. 4, and not exceeding Rs. 8								
„ „ 8, „ „ „ 12								
„ „ 12, „ „ „ 16								
„ „ 16, „ „ „ 32								
„ „ 32, „ „ „ 64								
„ „ 64, „ „ „ 150								
„ „ 150, „ „ „ 300								
„ „ 300, „ „ „ 800								
„ „ 800, „ „ „ 1,600								
„ „ 1,600, „ „ „ 3,000								
„ „ 3,000, „ „ „ 5,000								
„ „ 5,000, „ „ „ 10,000								
„ „ 10,000, „ „ „ 15,000								
„ „ 15,000, „ „ „ 25,000								
„ „ 25,000, „ „ „ 50,000								
„ „ 50,000, „ „ „ 100,000								
„ „ 100,000, „ „ „								
Total ...								

Circular,

DATED, CALCUTTA, THE

Mr. Justice Trevor.

It is hereby notified for general information that the Court will be closed in the year 1866, on the dates indicated in the following *List of the Holidays for* the year:

Name of Holidays.	English Month.	Bengalee Month.
New Year's Day and the two days following, ...	1st to 3rd January.	18th to 20th Pous, 1272.
Shubi-burrat, ...	3rd January.	20th Pous, 1272.
Bussunt Punchoomee, ...	21st & 23nd January.	9th & 10th Magh, 1272.
Shibo Rattree, ...	13th & 14th February.	3rd & 4th Falgoon, 1272.
Edool-fetter, ...	18th & 19th February.	8th & 9th Falgoon, 1272.
Dole Jattra, ...	1st & 2nd March.	19th & 20th Falgoon, 1272.
Baroonee Asnan, ...	15th March.	3rd Chyte, 1272.
Ram Nubomee, ...	25th March.	13th Chyte, 1272.
Good Friday and the day following, ...	30th & 31st March.	18th & 19th Chyte, 1272.
Mohabishun Sankrantee, ...	12th April.	31st Chyte, 1272.
Eedooz Zoha, ...	26th & 27th April.	14th & 15th Bysack, 1273.
Mohurrum, including Queen's Birth-day and the day before, viz., 23rd and 24th May, ...	21st to 25th May.	8th to 12th Justee, 1273.
Dussehra Gunga Asnan, ...	22nd June.	9th Assar, 1273.
Akhiree Chahaar Shumbah, ...	11th July.	22nd Assar, 1273.
Ruth Jattra, ...	14th July.	31st Assar, 1273.
Oolta Ruth, ...	22nd July.	7th Srabun, 1273.
Futiha Doazduhom, ...	25th July.	10th Srabun, 1273.
Jummo Ustoomee, ...	1st & 2nd September.	17th & 18th Bhadro, 1273.
Dusserah Vacation, including Mohaloyah, Luckhi Poojah, Dewalli, Bhratriditia, Kartick, Poojah, and Juggutdhatree, ...	8th Oct. to 17th Nov.	23rd Assin to 3rd Aghran, 1273.
Christmas Day and the two days following, ...	25th to 27th Dec.	11th to 13th Pous, 1273.

No. 1.

11TH JANUARY, 1866.

mation that the High Court and its subordinate Civil Courts annexed Memorandum.

the Year 1866.

Days of the Week.	Number of Days.	REMARKS.
Monday to Wednesday.	3 days.	
Wednesday.	1 day.	
Sunday & Monday.	2 days.	
Tuesday & Wednesday.	2 days.	
Sunday & Monday.	2 days.	But if the Moon be not visible on the 17th of February, then on the 19th and 20th of February.
Thursday & Friday.	2 days.	
Thursday.	1 day.	
Sunday.	1 day.	
Friday & Saturday.	2 days.	
Thursday.	1 day.	
Thursday & Friday.	2 days.	But if the Moon be not visible on the 16th of April, then on the 27th and 28th of April.
Tuesday to Sunday.	5 days.	But if the Moon be not visible on the 16th of May, then from the 22nd to the 26th of May.
Friday.	1 day.	
Wednesday.	1 day.	
Saturday.	1 day.	
Sunday.	1 day.	
Tuesday.	1 day.	
Saturday & Sunday.	2 days.	
Monday to Saturday.	40 days.	
Tuesday to Thursday.	3 days.	

Circular, No. 2.

DATED CALCUTTA, THE 2ND FEBRUARY, 1866.

Rescinded by Circular, No. 24, dated the 19th June, 1866.

Circular, No. 3.

DATED CALCUTTA, THE 9TH FEBRUARY, 1866.

Mr. Justice Trevor.

The Court are pleased to direct that, in commitments for giving false evidence under Sections 193, 194, and 195 of the Indian Penal Code, the Committing Officer shall invariably insert in the charge the particular statements on which perjury is assigned. By this method of procedure alone, can the accused fully understand the offence with which he stands charged, and be enabled to meet the charge brought against him.

Circular, No. 4A.

DATED CALCUTTA, THE 15TH FEBRUARY, 1866.

Forwards, for observance, copy of a letter No. 873, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 3rd February, 1866.

I am directed to request that, with the permission of the Hon'ble Judges of the High Court, you will be so good as to include the three Chiefs of Mahomedan Religious Institutions, whose names are noted on the margin, in the list of persons who have been exempted from personal attendance in the Civil Courts, under the provisions of Section 22, VIII. of 1859.

1, Shah Ameerooddeen, of Behar; 2, Shah Golam Nujuf, of the Durgah of Shah Arzan, in the City of Patna; 3, Shah Mahomed Ali Hubeeb, of Phoolwaree.

Circular, No. 4B.

DATED CALCUTTA, THE 20TH FEBRUARY, 1866.

To the Judicial Commissioner and the Deputy Commissioners in the Non Regulation Provinces.

Mr. Justice Trevor.

I am directed to forward herewith copy of a Circular No. 2, dated the 13th February, 1865, and to request that you will be so good as to submit, without delay, the information required therein in the forms annexed thereto.

Circular, No. 5.

DATED CALCUTTA, THE 28TH FEBRUARY, 1866.

Mr. Justice Trevor.

In continuation of the Circulars as per margin, and with reference to Government Order No. 1584, dated 14th March, 1865, which requires that the salaries of the Nazirs of all the Civil and Revenue Courts in the Lower Provinces should be charged to the Peons' Fund constituted under Act V. (Bengal Code) of 1863, the Court direct that the salaries of such Nazirs be exhibited in the 2nd column of the Quarterly Returns submitted to them in the Form B. appended to Circular Order, No. 10 A, dated 26th April, 1864.

Circular Order, No. 10 A., dated 26th April, 1864.

Circular Order, No. 4, dated 31st March, 1865.

2. The words "Nazirs and" should be inserted before the word "Peons" in the heading of the said Form B., which would change the present heading to that exhibited in the margin.

"Disbursement on account of the salaries of Nazirs and Peons of each Court during past Quarter."

Circular, No. 6.

DATED CALCUTTA THE 5TH MARCH, 1866.

To the Judges of Small Cause Courts.

Mr. Justice Trevor.

I am directed to forward to you the accompanying copy of a letter, No. 3, dated 15th ultimo, from the Judge of the Small Cause Court, Dacca, and, with reference thereto, to enquire whether you are aware of any objection to the destruction of old records immediately after the final execution of the decrees.

(Copy.)

SIR,—I have the honor to submit the following report for the consideration and orders of the Hon'ble Court :—

There is no special rule for the destruction of useless records of the Small Cause Courts. The nuthees, though containing only a few papers each, *viz.*, plaint, vakalutnama, summons, &c., may in time form a mass, so as to occupy shelves without adequate advantage.

On my taking charge of this Court, I issued instructions to the Clerk to destroy papers coming under the List B. of the late Sudder Court's Circular, No. 167, dated 3rd March, 1852, which, I regret, have not yet been carried out. The matter, however, is such as would suggest the advisability of a Rule for general observance.

In my humble opinion, the papers of a Small Cause Court case are not of any importance to render their retention at all necessary, after expiration of the time allowed for a review, or at latest after the decree is *finally executed*. The khattahs and accounts filed are taken back by the suitors. Bonds, notes, and other deeds which form the basis of most of the Small Cause Court cases, are of such a nature and character as to be of no further use to the parties. Small Cause Court cases can seldom form the subject of reference in future litigation between the parties to the suit or between others, and most of the papers come under B. Class, which, even in the ordinary Courts, are not required to be kept after the expiration of a year; not to mention the cases, generally a large number, adjusted amicably, or dismissed on default, the papers of which are of no use whatever.

The only records worth preservation in a Small Cause Court, are the Register and Summons Book,* containing, as they do, the names of parties, particulars of demand, date, decree, &c., &c. The latter also contains the evidence and the judgment, and serves the purpose of execution, as well as other matters of reference, if any. Should it happen that an important document, worth future use, is filed in any Small Cause Court case, the party filing it may give notice of the same to the Clerk, or take it back within a fixed time after the disposal of the case. If, however, the preservation of any paper for a particular period be deemed necessary, it rests with the Court to decide whether that period should exceed three years, the time allowed for execution. But I beg to state that even execution is issued in reference to the Summons Book alone; the papers of the nuthee never consulted.

* Prescribed by the printed Rules of Practice, dated 1st June, 1861.

Permit me to add that, during the last year, 2,698 Small Cause Court cases were disposed of by this Court, a rate in which the number of disposals

would in five years come to 13,490, and in ten to 26,980, and these, exclusive of execution cases. Now, whatever paper, if any, be kept of a case, the same must need a list, that is to say, a list for each and every case, and a General Register from year to year, and the cases ought to be arranged and placed by years and months. The Court may well imagine the amount of labor and attention this would entail, and to what advantage. The papers of cases decided by Small Cause Courts in certain Districts are sent for deposit to the Judge's Record Office, which I fear not only would augment inconvenience, but may very likely cause confusion.

Circular, No. 7.

DATED CALCUTTA, THE 7TH MARCH, 1866.

Mr. Justice Trevor.

Doubts having arisen as to the precise nature of the information required for columns 5 and 6 of the form appended to Circular Order, No. 24, dated the 23rd December last, the following instructions are issued in explanation :—

2. By the "stamp duty levied on institution of suits," is meant the value of the stamp paper on which the *plaint* is presented, calculated, as it ought to be, in the manner prescribed in Article 11, Schedule B of Act X. of 1862; the graduated scale furnished there being the model according to which the scale in the above form has been constructed. Column 5 should therefore show, opposite each step of the scale, the total amount of the stamp duty levied on the plaints included therein.

3. By the "total cost" of a suit are signified *all the legitimate expenses* which a suit entails, namely, such expenses as a Judge would sanction under the head of costs, including the costs of both parties. Accordingly column 6 would contain as well the value of the institution stamp (already entered in column 5) as the stamp values of the other documents filed, and also Civil Ameens' fees, Peons' fees, witnesses' expenses, and all other charges included in the recognised costs.

4. As regards those Judges who have already submitted their Returns to Circular Order, No. 34 of 1865, if the columns in question have been filled up in the way now explained, no further Return will be necessary. But if these columns have been dealt with in a different manner, fresh Returns should be submitted with the particulars now required. As this Return is urgently required by Government, the Court request that it may receive immediate attention.

Circular, No. 8.

Has been cancelled.

Circular, No. 9.

DATED THE 13TH MARCH, 1866.

Forwards to the Civil and Criminal Authorities in the Lower Provinces, for their information and guidance, copy of a letter No. 1490, *from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 27th February,* 1866.

(Copy.)

I am directed by the Lieutenant-Governor to request that the Court will be good enough to inform the Officers subordinate to them that no charge for printing executed at private presses should be admitted at rates higher than those of the Alipore Jail Press. The rates of charge for Book Printing have never undergone revision, and are susceptible of reduction in every case.

2. I am to add that no relaxation of the Rule requiring public Officers to forward their indents for printed forms to the Superintendent of Stationery has been authorized.

Circular, No. 10.

DATED CALCUTTA, THE 23RD MARCH, 1866.

Mr. Justice Trevor.

The Court are pleased to circulate the accompanying forms, and to request that the requisite information be supplied *as soon as possible* by all the Civil Courts subordinate to them.

2 The information required relates to *original* suits only which were *decided* during the year 1865, and should be exhibited in the manner laid down by Circular Order No. 34, dated 23rd December last (para. 2). The explanations given regarding stamp duty and costs of suit in Circular Order No. 7, dated 7th instant, apply respectively to the columns 4 and 5 of the forms now sent.

3. As the information is urgently required by Government, the Court expect that it will be promptly furnished. The Court will not fail to notice any unnecessary delay.

Form No. 1.

Original Suits relating to land, the valuation of which is calculated at the amount of the Annual Jumma.

1	2	3	4	5
	Number of Suits.	Aggregate Value.	Amount of Stamp duty levied on institution of Suits.	Total costs of Suits.
Not exceeding Rupees ... ... 300 Exceeding Rs. 300, and not exceeding 500 " 500 " 800 And so on up to Rs. 10,00,000				

Form No. 2.

Original Suits relating to land, the valuation of which is calculated at three times the Sudder Jumma.

1	2	3	4	5
	Number of Suits.	Aggregate Value.	Amount of Stamp duty levied on institution of Suits.	Total costs of Suits.
Not exceeding Rupees ... ... 300 Exceeding Rs. 300, and not exceeding 500 " 500 " 800 And so on up to Rs. 10,00,000				

FORM No. 3.

Original Suits relating to land, the valuation of which is calculated according to Note (d) Schedule B, Act X. of 1862.

1	2	3	4	5
	Number of Suits.	Aggregate Value.	Amount of Stamp duty levied on institution of Suits.	Total costs of Suits.
Not exceeding Rupees ... .. 300 Exceeding Rs. 300, and not exceeding 500 „ 500 „ 800 And so on up to Rs. 10,00,000				

FORM No. 4.

All original suits, the valuation of which is estimated under the Rule laid down in Note (e) Schedule B, Act X. of 1862.

1	2	3	4	5
	Number of Suits.	Aggregate Value.	Amount of Stamp duty levied on institution of Suits.	Total costs of Suits.
Not exceeding Rupees ... ... 4 Exceeding Rs. 4, and not exceeding 8 „ 8 „ 12 „ 12 „ 16 And so on up to Rs. 10,00,000				

Circular, No. 11.

DATED CALCUTTA, THE 23RD MARCH, 1866.

Mr Justice Trevor.

The extract given in the margin from the proceedings of the Government of India, in the Financial Department, under date the 26th January last, is hereby circulated for

Resolution.—The Governor-General in Council is now pleased to confirm, as a permanent arrangement, the Rule which was experimentally passed in the year 1864, authorizing the grant of half pay to peons while sick in Hospital, or receiving Medical aid as Out-door patients of the Hospital of the Station at which the peons are serving.

the information and guidance of all Zillah Judges and their subordinates, as well as of Judges of Small Cause Courts.

2. It is further notified that the Government of Bengal has, under date the 3rd instant, authorized the general extension of the same Rule to Peons employed under Act V. (B. C.) of 1863.

Vide Government to Court, dated 24th March, 1866.

Circular, No. 12.

DATED CALCUTTA, THE 23RD MARCH, 1866.

Mr. Justice Trevor.

As the Court find that the Form A, Appendix to their Circular, No. 2, dated the 13th February, 1865, does not provide for a return of the amount of Stamp duty refunded under Note (F), Article 12, Schedule B, Act X. of 1862, they request that a fresh column may be inserted after column 3, supplying the requisite information, and another column shewing the total amount refunded.

The amended Form of Statement A will be the following :—

1	2	3	4	5	6	7	8
Name of Court.	Value of Stamp filed.	Amount refunded under Act X. of 1862, Section 26.	Amount of Stamp duty refunded under Note (F), Article 12, Schedule B, Act X. of 1862.	Total amount refunded.	Net amount value of Stamps.	Receipts on account of Ameens' Fees.	Total Receipts, being aggregate of Columns 6 and 7.

2. It will be seen that the new column refers to information which can be supplied only from Courts of appeal, as it relates to the refund of Stamp

duty realised on the petition of appeal. The fresh returns for the past year (1865), which the Court require with as little delay as possible, will not embrace the Courts of Sudder Ameens or Moonsiffs.

Circular, No. 13.

DATED CALCUTTA, THE 14TH APRIL, 1866.

Mr. Justice Trevor.

The High Court request the immediate attention of all Judges of Districts to Section 43, Act XX. of 1865, and are pleased to direct that notifications explaining its terms be issued by all Civil Courts at once, in order that all persons who may now be practising as Pleaders in any Civil Court, and who may wish to be enrolled under that Act, may lose no time in applying to be so enrolled, so as to be duly qualified to appear, plead, and act on and after the 1st July next,* when Act XX. of 1865 comes into operation; for, from that date, none but Pleaders duly enrolled are entitled by law to appear, plead, and act in the Courts in the Mofussil.

* *Vide* Act XXIX. of 1865.

2. It should be explained that, in accordance with Section 43, each application should be made in writing on a stamp paper of the value prescribed for petitions before the Court in which the Pleader so applying may be practising, and that none but those who, on the 1st January last, may have been practising as Pleaders, are entitled to the privileges set forth in Section 43.

3. In addition to his own name, every application should contain that of the applicant's father, his age, his place of residence, and the particular class of Court in which he wishes to practise.

4. Junior Pleaders should apply to the Sudder Ameen or Moonsiff before whom they may be practising, and the Sudder Ameen or Moonsiff should, without delay, forward such application to the Judge of the District for transmission to the High Court. Senior Pleaders should apply to the Judge of the District, or to the Principal Sudder Ameen in any place in which the Judge of the District may not reside. Such Principal Sudder Ameen should forward to the Judge of the District all applications that may be made to him. In every case, the local Court should satisfy itself that the person so applying is a Pleader holding a proper Diploma; and that, on the 1st of January last, he was in actual practice.

5. As the law requires that, after the 1st July next, before any person can be duly qualified to plead before any Civil Court, he shall have been

enrolled by the High Court, and shall have received a certificate in the manner provided by Sections 8, 9, and 10 of the Act, the High Court request that all Judges will warn Pleaders of the necessity for making applications for enrolment without delay. Such applications should be forwarded to the High Court as soon as possible.

6. As soon as an application has been received, the applicant's name will be enrolled by the High Court, who will then authorise the granting of a certificate in the manner provided by Act XX. of 1865.

(See in continuation Circular Order, No. 15, dated 20th April, 1866.)

Circular, No. 14.

DATED CALCUTTA, THE 18TH APRIL, 1866.

Mr. Justice Trevor.

The Court circulate, for general information and guidance, the accompanying copy of Government letter No. 2442, dated the 11th instant, exempting Rajah Raj Krishna Sing Bahadoor, Zemindar of Soosung in Mymensingh, from personal attendance in the Civil Courts of Lower Bengal.

(Copy.)

I am directed to state, for the information of the High Court, that the Lieutenant-Governor has, under the provisions of Section 22, Act VIII. of 1859, been pleased to exempt Rajah Raj Krishna Sing Bahadoor, Zemindar of Soosung in Mymensingh, from personal attendance in the Civil Courts.

2. I am to request that you will, with the High Court's permission, cause this to be notified in the District.

Circular, No. 15.

DATED CALCUTTA, THE 20TH APRIL, 1866.

Mr. Justice Trevor.

In continuation of their Circular No. 13, dated 14th instant, the Court are pleased to issue the following orders regarding the enrolment of Mookhtars under Act XX. of 1865.

2. In order to provide for the present requirements of the Local Courts, the High Court have determined that any person who, on the 1st January

last, had been practising as Mookhtar in any Criminal Court for the term of at least one year immediately preceding that date, shall be entitled to apply for enrolment under Act XX. of 1865.

3. Judges and Magistrates of Districts should lose no time, therefore, in notifying to all Mookhtars that, unless they are duly enrolled and have received certificates under Act XX. of 1865, they will not be entitled to appear, plead, or act in any Civil or Criminal Court after 1st July next, and they should call upon all persons now practising as Mookhtars who may wish to continue to be such to submit without delay applications for enrolment.

4. Every application must be made in writing on stamp paper of the value prescribed for petitions to the Judge of the District, or, where there is no Resident Judge as at Mooteeharee, Monghyr, Bograh, Maldah, Pubnah, Fureedpore, Balasore, Pooree, Noacolly, and Howrah, to the Magistrate of the District, and must contain, besides the name of the applicant, the name of his father, his place of residence, his age, the grounds upon which he applies for enrolment, and the Class of Courts in which he wishes to practise.

5. The Court desire to point out that every applicant is not of necessity eligible for admission as Mookhtar, even though he may have served the period prescribed in para. 2, for the Court require that every applicant shall satisfy the Judge, or, in the special cases aforementioned, the Magistrate, that he is a person of good moral character and is qualified by his knowledge of law and procedure to continue practising as Mookhtar. The Court request that these Officers will satisfy themselves thoroughly on these points, and the Court suggest that Judges place themselves in communication with the Magistrates of Districts, with the view of obtaining the requisite information.

6. If the Judge or Magistrate, in the special cases aforementioned, considers that the applicant is a proper person to be admitted as a Mookhtar, he should forward his application to the High Court for enrolment, together with a certificate to that effect endorsed thereon.

7. The High Court, on receipt of an application, will either order the enrolment of the applicant, (in which case a certificate shall be granted by the Judge in the manner prescribed by Sections 8, 9, 10, Act XX. of 1865,) or will reject the application.

8. The Court in conclusion desire to impress upon all Officers the absolute necessity for prompt action on their part, as, unless a certificate has actually been granted to a person before the 1st July next, he cannot practise as a Mookhtar in any Criminal Court. But at the same time the Court think it necessary to add that these instructions are not intended to interfere with the provisions of Section 40, Act XX. of 1865, by which an accused person, with the permission of the presiding Judge or Magistrate, may be defended by any person not a Pleader or Mookhtar. The Court rely, with confidence on the

care and intelligence of Judges and Magistrates, for a proper performance of the important duties which, under Act XX. of 1865, now devolve upon them.

Circular, No. 16.

DATED CALCUTTA, THE 25TH APRIL, 1866.

Mr. Justice Trevor.

The High Court are pleased to order that, for the future, whenever the order of a Court of first instance be modified or reversed on appeal, or whenever any irregularity in the proceedings of such Court be made the subject of argument by the Pleaders, and of comment by the Court of Appeal, a copy, or a translation of the judgment, if it has been recorded in a language not intelligible to the subordinate Judge, be forwarded for the information and future guidance of such Officer.

2. The High Court trust that, by this means, the judgments of the lower Courts may be improved, and the work of the Appellate Courts may, in consequence, be diminished.

3. Judges of Districts are requested to communicate these orders to their subordinate Principal Sudder Ameens.

Circular, No. 17.

No Civil Circular Order bearing this number was issued.

Circular, No. 18.

DATED CALCUTTA, THE 11TH MAY, 1866.

Mr. Justice Trevor.

The Court desire to remind all Civil Judges that they are empowered, by Section 4, Act V. (B. C.) of 1863, to employ, for the service and execution of processes on special occasions, other than registered peons. That power, however, should be exercised *only* when there is absolute necessity for the employment of extra peons; and on the occurrence of such necessity, the Judge (*i. e.* the presiding Officer of the Court by whatever title designated,

Section 10) should hold a proceeding, and record his reasons for employing such peons. When this is done by any Judge subordinate to a Zillah Judge, the latter should be furnished at once with a copy of the proceeding, and the Court will expect to receive from Zillah Judges, at the close of the month in which extra peons are employed in any Civil Court in their Districts, a Return showing the number of men employed, and the costs of their employment. Judges of Small Cause Courts will submit to the High Court a similar Return under like circumstances.

2. The following Rule, which has been approved by Government,* is circulated for general observance in cases of the above nature.—"Where extra peons are employed for any period less than a month; they shall receive the full amount realized from suitors for their services according to the rate laid down in paragraph 3, Circular Order No. 10 A, dated 26th April 1864; but when their services are retained for one month or longer, they shall be remunerated by fixed salaries according to the usual scale, the entire fees being credited to Government."

* *Vide* G. O., 6th April, 1865, No. 2235.

Circular, No. 19.

DATED CALCUTTA, THE 16TH MAY, 1866.

Mr. Justice Trevor.

In continuation of Circular Order, No. 25, dated 15th September last, the Court are pleased to point out that, when a certificate of administration is granted under Act XL. of 1858 to any person *entitled* to have charge of the property of a minor by virtue of a Will or Deed, or to any relative (Section 7), such relative or other person is not required to file annual accounts under Section 16, inasmuch as that Section only applies to the public Curator and other administrators to whom a certificate may have been granted under Section 10.

2. But under Section 21 the Civil Court *for any sufficient cause* may recal *any certificate granted under the Act*, and may

then compel the person whose certificate has been recalled, to make over the property in his hands to his successor (to whom the Court has the power of granting a fresh certificate), and to account to such successor for all monies received and disbursed by him; and, on the neglect or refusal of such person to deliver his accounts and property in his hands, the Court, under Section 22, may impose on him a fine not exceeding Rs. 500, realizable by attachment and sale of property, and may commit the recusant to close custody, until he shall consent to deliver such account or property. Thus the Court has power, though not identical in both cases, over administrators under Section 7, as well as over those under Section 10.

3. The Court desire to add that, although administrators under Act XL. of 1858, other than public Curators and others appointed under Section 10, cannot be required to furnish accounts annually, yet they are bound to keep regular accounts (for they may be sued* and compelled to produce them); and the Court draw attention to the duty rightly enjoined upon them in the certificates for which Form A of Circular Order No. 26, dated 31st August 1859, has been provided. Zillah Judges should omit no opportunity of reminding such persons of the duty of keeping accounts and of exercising a proper economy in carrying out their trusts.

* Section 19.

Circular, No. 20.

DATED CALCUTTA, THE 16TH MAY, 1866.

Mr. Justice Trevor.

In continuation of Circular, No. 10, dated the 23rd March last, the Court find it necessary to explain that suits concerning claims which fall within more than one of the descriptions therein provided for, should be entered in the Statement which refers to the more valuable portion of the claim.

2. Thus, if a suit be for recovery of a house and some lakhiraj land, the Statement in which it will be entered, will depend upon whether the house or the lakhiraj land is assessed at the highest value.

3 The Court take this opportunity of calling upon all Judges to submit, without delay, the Statements required by Circular No. 10 above referred to, as ample time has been allowed for their preparation, and they are urgently required by Government.

Circular, No. 21.

DATED CALCUTTA, THE 28TH MAY, 1866.

To all Judges of Courts of Small Causes.

Mr. Justice Trevor.

The attention of Judges of Mofussil Small Cause Courts is drawn to Financial Resolution No 270, dated 1st Instant,* by which the ensuing financial year (1867-68) has been ante-dated, so that it will commence on the *1st April*, 1867. The effect of this Resolution will be to reduce the current official year to 11 months by limiting it to the 31st March next, and by throwing the month of April into the following financial year. It will accordingly be necessary to deduct the contemplated payments of the month last named (April 1867) from the Budget Grant for 1866-67. This can be easily effected as regards *fixed* salaries by deducting, from the grant, *one-twelfth* of the amount sanctioned for the year; but with respect to *fluctuating* charges, it will be necessary to form a probable estimate of what will need to be paid in April next, and to retrench such estimate from the Budget Grant. The Court request accordingly that each Judge will report for their approval the total amount (fixed as well as fluctuating) which he proposes to deduct from the Grant for 1866-67.

* *Vide* page 690 of the *India Gazette*, dated 5th May 1866.

2. The Court are also pleased to state, for the information and guidance of Judges of Small Cause Courts, that the head "Allotment," which is provided at foot of the prescribed form of Bill for Monthly Contingent Charges, is intended to include none but the following Heads of Charge:—

"Travelling Allowances.
"House-rent.
"Stationery.
"Office Contingencies.
"Petty Construction and Repairs."

The cost of punkah-pullers should be shown under the Head of Contingencies, and the total of the foregoing five heads, as ascertained from the Budget Grant, should be exhibited in the Contingent Bill as the *allotment* for the year.

Circular, No. 22.

DATED CALCUTTA, THE 13TH JUNE, 1866.

Mr. Justice Trevor.

The accompanying Rules passed by the High Court under Section 37, Act XX. of 1865, are hereby circulated for the guidance of the Civil Judges subordinate to them, in all proceedings held on and after the 1st July ensuing, from which date* the law above mentioned will come into operation.

* *Vide* Act XXIX. of 1865.

2. The Court expect that Civil Officers will invariably act up to the letter and spirit of the Rules now forwarded.

Rules made by the High Court of Judicature at Fort William in Bengal, in pursuance of Act XX. of 1865, *Section* 37, *for fixing and regulating the Fees payable by the unsuccessful party in respect of the Fees of his adversary's Pleader in proceedings in any Court of Civil Judicature subordinate to the said High Court.*

In pursuance of Section 37, Act XX. of 1865, the High Court is pleased to direct that, from and after the 1st day of July 1866, the sums which shall be payable by an unsuccessful party in any suit or proceeding in the Subordinate Civil Courts in respect of the fees of his adversary's Pleader, shall be calculated at the rates specified in the following scale, that is to say:—

Rule 1.—In suits for the recovery of Specific Property, or a share of Specific Property, whether immoveable or moveable, or for the Breach of any Contract or for Damages—

If the amount or value of the Property, Debt, or Damages decreed shall not exceed Rs. 5,000 at 5 per cent. on the amount or value decreed.

If the amount or value shall exceed Rs. 5,000 and not exceed Rs. 20,000, on Rs. 5,000 at 5 per cent., and on the remainder at 2 per cent.

If the amount or value shall exceed Rs. 20,000, and not exceed Rs. 50,000, on Rs 20,000 as above, and on the remainder at 1 per cent.

If the amount or value shall exceed Rs. 50,000, on Rs. 50,000 as above, and on the remainder at ½ per cent.

Provided that in no case shall the amount of any fee exceed Rs. 3,000

Rule 2.— In suits for injuries to the person or character of the plaintiff, such as suits for assaults or defamation, or for injuries to property, or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a Right to Light or Water or to enforce a Right of Pre-emption, or suits for the partition of Joint Property, where partition is improperly resisted—if the plaintiff succeed, the Court may order the fee of the Pleader for the plaintiff to be calculated with reference either to the amount decreed, or according to the valuation of the suit, or according to such a sum not exceeding the valuation as the Court shall think reasonable and shall fix with reference to the importance of the subject of the dispute. In any such case the amount of the Pleader's fee shall be calculated according to the scale in Rule 1.

Rule 3.—If the suit be dismissed for default or upon the merits, or be decreed for the defendant, the defendant's Pleader's fee shall be calculated according to the scale in Rule 1 on the whole value of the suit.

Rule 4.—If the suit shall be decreed for the plaintiff as to part only of his claim, and as to the remainder shall be dismissed or decreed for the defendant, the fees allowed to each party's Pleader shall be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to the scale in Rule 1.

Rule 5.—If in any suit for Unliquidated Damages, the plaintiff shall succeed as to the whole of his cause of action, but shall fail to recover the full amount of the damages claimed, the defendant shall not be entitled to any allowance for a Pleader's fee in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was unreasonable or excessive, and shall for that or any other cause to be specified, direct that a fee for his Pleader shall be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to the plaintiff, and shall be calculated according to the scale in Rule 1.

Rule 6.—If several defendants who have a joint or common interest, succeed upon a joint defence or upon separate defences substantially the same, not more than one Pleader's fee shall be allowed, unless the Court shall otherwise order for a reason which shall be recorded. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

Rule 7.—If several defendants, who have separate interests, set up separate and distinct defences and succeed thereon, a fee for one Pleader for each of the defendants who shall appear by a separate Pleader, may be

allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant, according to the scale in Rule 1.

Rule 8.—The amount in respect of the fee of an adversary's Pleader when allowed in any Miscellaneous Proceeding, or for any other matter than that of appearing, acting, or pleading in a suit prior to decree, shall be fixed by the Court according to the following scale, *viz.* :—

Rs. 10 to Rs. 80 in the Court of a Judge or Principal Sudder Ameen.

Rs. 4 to Rs. 16 in the Court of a Sudder Ameen.

Rs. 1 to Rs. 4 in the Court of a Moonsiff.

The above scale shall apply to applications under Section 53 or 55, of Act XX. of 1866. *(See Circular, No. 28, 20th July,* 1866.*)*

Rule 9.—In every suit in any Court of Original Jurisdiction which shall be undefended, the amount to be paid as the fee of the adversary's Pleader, shall be calculated at one-half the sum at which it would have been charged, had the suit been defended.

Rule 10.—If a Review be rejected after summoning the opposite party, or if after the admission of a Review the former Judgment be upheld, the Pleader's fee, if allowed to the successful party in the Review, shall be fixed by the Court at an amount, which shall not in any case exceed one-half of the amount allowed by these Rules in case of an original Decree.

Rule 11.—If after the admission of a Review, the former Judgment be reversed, the fee of the Pleader in respect of the Review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these Rules in case of an original Decree. The fee allowed in respect of the Review, will be irrespective of any Pleader's fee which may be included in any costs in respect of the original suit which may be adjudged to the successful party by the Judgment in Review.

Rule 12.—The amount, to be allowed on account of the fee of an adversary's Pleader in appeals, shall be calculated on the same scale as in original suits, and the principles of the above Rules as to original suits shall be applied, as nearly as may be, to appeals.

Rule 13.—When the interest of several appellants is joint, not more than one Pleader's fee shall be allowed, unless the Court shall otherwise order for a reason to be recorded. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid, or shall apportion it amongst the several appellants in such proportions as it shall think fit.

Rule 14.—If several respondents in one appeal appear by separate Pleaders, in determining whether several Pleader's fees shall be allowed, the Court shall be guided by the principles laid down in Rules 6 and 7.

Rule 15.—If in any instance the payment of fees, according to the preceding Rules, shall not appear to the Court to be just and equitable, the Court may exercise its discretion in charging the fee of the adversary's Pleader in such manner as may appear just and equitable; but in every case, when an allowance is made for a Pleader's fee, the amount shall be calculated according to the scale in Rule 1, or according to Rule 8, as the case may be.

Provided that, if under the provisions of Section 351, Act VIII. of 1859, the decree of a lower Court be reversed on appeal and the case be remanded to the lower Court to be tried upon the merits, the lower Court on passing its decree may allow to the successful party such a sum as the Court shall consider to be reasonable, (not exceeding half the amount calculated according to the scale in Rule 1) on account of his Pleader's fee in respect of the re-hearing, in addition to the full amount of his Pleader's fee calculated according to that scale.

Provided also that, if an appeal be preferred against the decree passed on remand, the fee, if any, allowed by the Appellate Court to the party succeeding in that appeal, shall not, unless for a special reason to be recorded, be less than one-fourth, nor more than half of the amount calculated at the rate mentioned in Rule 1; if, by the decree of the Appellate Court remanding the case, the same party shall have been allowed a full Pleader's fee in respect of the former appeal in the suit, either absolutely or conditionally upon his succeeding upon the remand.

Provided also that if, under Section 354, Act VIII. of 1859, an issue be framed and referred by the Appellate Court for trial by the lower Court, the Appellate Court may, if it think proper, allow to the party who shall succeed in the appeal such a sum as the Court shall consider reasonable, not exceeding half the amount calculated at the rate mentioned in Rule 1 for his Pleader's fee in respect of the trial of the issue in the lower Court, in addition to a full fee, in respect of the appeal, calculated at that rate.

B. PEACOCK.	LOWIS S. JACKSON.
C. B. TREVOR.	SUMBHOONATH PUNDIT.
G. LOCH.	G. CAMPBELL.
H. V. BAYLEY.	E. JACKSON.
J. P. NORMAN.	F. A. B. GLOVER.
F. B. KEMP.	A. G. MACPHERSON.
W. J. SETON-KARR.	J. B. PHEAR.

Circular, No. 23.

DATED CALCUTTA, THE 15TH JUNE, 1866.

Mr. Justice Trevor.

I am directed by the Court to inform you that arrangements have been made with the Superintendent of Stamps and Stationery to supply district treasuries with printed forms, on stamped paper of the required values, of the certificates to be issued to pleaders and mooktars under Section 10, Act, XX. 1865.

2. I am to request that you will cause this fact to be published throughout your district, for the convenience of parties who may wish to provide themselves with the forms, that they are obtainable at the different local treasuries.

Circular, No. 24.

DATED CALCUTTA, THE 19TH JUNE, 1866.

The Chief Justice.
Mr. Justice Trevor,
" " Loch,
" " Bayley,
" " Norman,
" " Jackson, L.S.

No. 5, dated 31st March, 1865.
" 13, " 26th June, "
" 21, " 5th Sept. "
" 33, " 22nd Dec. "
" 2, " 2nd Feb. 1866.

In supersession of their Circulars as per margin, the Court are pleased to issue the following instructions regarding the new Registration Act (XX. of 1866), to which they request the immediate attention of all Civil Judges of whatsoever grade:—

2. Sections 41, 42, and 43, which prescribe the duties of Civil Courts in certain cases decided by them, are quoted below for easy reference. The difference between their provisions and those of Sections 43 and 45, Act XVI. of 1864, should be carefully noted, so that no mistakes may occur in giving effect to the present law.

Section 41.—When any Civil Court shall, by a decree or order, declare any document relating to immovable property which shall have been registered under this Act, to be invalid, or when any Civil Court shall pass a decree or order affecting any such document, and such last mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or

interest under such document to or in the immovable property to which it relates, such Court shall cause a Memorandum of the decree or order to be sent to the Registrar within whose district the document was originally registered.

Section 42.—When any Civil Court shall, by a decree or order, create, declare, transfer, limit, or extinguish any right, title, or interest of any person to or in any immovable property situate in any part of British India in which this Act shall operate, such Court shall cause a Memorandum of the said decree or order to be sent to the Registrar, or to every Registrar within whose district the whole or any part of such immovable property is situate, and such Memorandum shall, so far as may be practicable, describe the property in the manner required by Section 21.

Section 43.—The costs of and attending the registration under Sections 41 and 42 of any Memorandum of a decree or order shall be costs in the cause, and shall be paid by the Court to the Registrar or to such other person, and in such way as the local Government shall direct in that behalf.

3. The main difference between Section 41 of the present, and Section 43 of the repealed law is, that it is now required that Memoranda of decrees or orders affecting registered documents shall be sent to the Officer generally known as the *District Registrar*, that is, "the Registrar within whose district the document was originally registered;" whereas under the now repealed law such Memoranda used to be sent to the Office in which the document was originally registered, which might be, and in most cases no doubt was, the Office of a Sub-Registrar.

4. A somewhat similar difference will be found on comparing Section 42 of the present with Section 45 of the repealed law. The Memoranda of decrees or orders affecting immovable property should be sent not as heretofore to both District and Deputy or Sub-Registrars, but only to the District Registrar, or to every District Registrar within whose District the whole or any part of such immovable property is situate. It

should be noted that a Memorandum sent under Section 42 should, as far as practicable, describe the property in the manner required by Section 21. The Court trust that they may receive no complaint of a non-observance of this provision of the law; for, unless the Memorandum contains a proper description of the property, the purposes for which it is required are entirely defeated, and the Memorandum is useless.

5. Whenever a judgment is recorded in English, the Memorandum to be sent to the Office for registration should be invariably drawn up in that language; for it is evident that the substance of decrees or orders passed by a Judge, of the nature of those entered in such Memoranda, can be best expressed in the language in which the original judgments were delivered.

6. Subordinate Courts should keep a copy of every Memorandum sent to the District Registrar, and the High Court is pleased to direct that, in forwarding the records of appealed cases, all Courts of first instance, and all subordinate Courts of Appeal, shall attach, to the judgment appealed against, a copy of the Memorandum (or Memoranda) sent in for registration.

7. In connection with Section 43, which it will be observed is an entirely new provision of the law, the High Court desire to point out that the costs of registration should be entered in every decree or order registered under Sections 41 and 42. The costs to be charged in the decree or order should, in accordance with the Schedule sanctioned by His Excellency the Governor-General in Council, be calculated in the following manner:—

"The costs to be paid on Memoranda sent by the Civil Courts under Section 41, should be estimated at Rs. 2 in each case.

"The costs to be paid in Memoranda of decrees sent by the Civil Courts under Section 42 should be estimated on the value of the property affected by the decree according to the scale given in the Schedule A, *viz.*:—

"Where the value shall not exceed

Extract from the Schedule of Fees under the Indian Registration Act XX of 1866, sanctioned by Government.

	Rs. 25	Rs. 0 4
Exceeding Rs. 25		
but not exceeding Rs.	100	.. 0 8
„ 100 „ ..	500	.. 1 0
„ 500 „ ..	1,000	.. 1 8
„ 1,000 „ ..	4,000	.. 2 0
and for every further Rs. 4,000 or part thereof, ...		1 0

(NOTE.—Where Memoranda have to be sent to more than one District Registrar's Office, the costs calculated as above shall be forwarded by the Court to the Office in the District in which the principal part of the property affected by the decree is situate, and Re. 1 shall be forwarded to each of the other Offices to which Memoranda are sent.)"

8. It will be observed that, for registering a Memorandum under Section 41, Rs. 2 only will be charged as costs in the decree or order, whereas for a memorandum under Section 42, a calculation will be necessary under the scale quoted in the foregoing rule.

9. To illustrate the mode of dealing with a Memorandum under Section 42 of a decree in which the property is valued at Rs. 23,000, and is situated in Moorshedabad, Rajshahye, and Nuddea, the greater portion of the property being in the last named district, the Court would point out that the charge for registration would be calculated in the following manner :—

For the first 4,000	Rs.	2 0
For four successive sums of 4,000		4 0
For a broken portion.....		1 0
For registration in Moorshedabad and Rajshahye		2 0
	Rs.	9 0

The greater portion of the property being situated in Nuddea, the full fee, viz., Rs. 7, would be credited to the Registration

Fund of that District, the sum of Re. 1 being credited to the Funds of Moorshedabad and Rajshahye, to the Registrars of which districts Memoranda should also be sent.

10. Civil Courts should bear in mind such charges, and at the time of the execution of any such decree or order should be careful to see that the Government dues are deducted from the monies realized in execution before any payment is made to the judgment-creditor. The dues should be deposited in Court, and, as the local Government has as yet issued no orders regarding the payment of such monies, they should be made over, without delay, to the District Registrar or Registrars as may be. The High Court take this opportunity of impressing on all Judges the necessity for guarding against any loss by fraud or embezzlement.

11. Forms for the preparation of Memoranda under Sections 41 and 42 are hereto annexed. They are the same as those now in use which were prescribed by Circular, No. 5, dated 31st March, 1865, except that an additional column has been added to show the amount of costs entered in the decree or order, which will, on execution of the said decree or order, be realized and paid into the credit of the Registration Fund.

12. In those districts in which the Bengali language is used, the names of persons and places in the Memoranda should be written in the Bengali character; but in those districts in which the proceedings are drawn up in the Persian character, the names of persons and places should be written in Hindee over the corresponding names in Persian, for it is possible to read a name written in Persian character in half a dozen different ways, and there is no certainty as to the orthography.

13. With the view of ensuring the performance of the duties connected with the preparation of these Memoranda, the High Court request that every Civil Court, in recording its judgment and decree or order in a case requiring registration, will enter the words "and a copy of the Memorandum A (or B), as required by Section 41 (or Section 42) of Act XX. of

1866, shall be forwarded to the Office (or Offices) of the Registrar (or Registrars) of

14. The Quarterly Statements required by para. 8, Circular, No. 5, dated 31st March, 1865, should be forwarded as heretofore.

15. The High Court trust that, under the supervision of District Judges, the duty of preparing and forwarding Memoranda to Registration Offices has been regularly and punctually performed by all the Civil Courts. If it has, in any instance, been neglected, such neglect should be at once reported to the High Court, and measures should be taken, without delay, to bring up any arrears.

16. The High Court also desire to remind all Civil Judges that the provisions of Sections 41, 42, 43, Act XX. of 1866, will apply only to decrees and orders passed subsequently to the 1st May, 1866, those of a prior date being governed by the provisions of Act XVI. of 1864, and that its terms apply to original as well as to appealed suits in which the decree or order passed, concerns a registered document relating to immovable property, or creates, declares, transfers, limits, or extinguishes any right, title, or interest of any person to or in any immovable property situate in any part of British India in which Act XX. of 1866 shall operate.

17. With a view of ensuring uniformity of practice, the Court is pleased to issue the following rules regarding the preparation of Memoranda of Registration :—

A. In decrees of a Court of first instance dismissing a plaintiff's claim to any right, title or interest to or in any immovable property, no Memorandum need be prepared.

B. In decrees of an Appellate Court affirming the decree of a Court of first instance dismissing *in toto* a plaintiff's claim to or in immovable property, no Memorandum need be prepared.

C. In decrees of a Court of first instance decreeing either wholly or in part a right, title, or interest in immovable property claimed by the plaintiff, a Memorandum must be

prepared as to the property decreed: if, on appeal, the decree be affirmed without alteration or modification, no Memorandum need be forwarded.

D. In decrees of an Appellate Court in which the decree of the lower Court is modified or reversed, wholly or in part, a Memorandum as to the part so modified or reversed, should be prepared and forwarded.

E. When a decree of a Court of first instance declares a registered document relating to immovable property invalid, or when such Court passes a decree affecting such document, and such decree shall create, declare, transfer, limit, or extinguish any right, title, or interest under such document to or in the immovable property to which it refers, or to any part thereof, a Memorandum should be prepared.

F. When a decree of an Appellate Court simply affirms the order of a Court of first instance on points relating to a registered document of immovable property, no Memorandum need be prepared; but if such decree modifies or in way varies or reverses thatof the lower Court, a Memorandum relating to the portion of it so modified, varied, or reserved, should be prepared.

G. When a decree has been passed by a Court of Justice in a suit instituted under Section 230 of Act VIII. of 1859, in favour of the applicant as plaintiff, either wholly or in part, a Memorandum should be prepared of the property decreed; and if, on appeal, that decree be wholly or partially varied or reversed, a Memorandum showing such variation and reversal should be prepared; but, if the decree of the first Court be affirmed, no Memorandum is necessary.

H. When a sale of immovable property made in execution of a decree has been confirmed by the Court, under Sections 256 and 257 of Act VIII. of 1859, a Memorandum of sale and confirmation should be prepared; and if, on appeal, that sale should be reversed, a Memorandum of such order of reversal should be prepared by the Appellate Court.

I When under Act X. of 1865, probate is granted or refused, by a District Judge, of a will containing words sufficient to pass immovable property, a Memorandum should be prepared.

J. If, on a review of a judgment, a Court should set aside, modify, or in any way interfere with the decree as originally passed, then, if a Memorandum of the original decree has been forwarded to the proper Registration Office, a Memorandum should also be forwarded, notifying the extent of the modification or reversal made by the order passed in review.

K. No Memorandum need be prepared of orders passed by any Court under Act XXVII. of 1860, nor those passed under Act XIX. of 1841, nor those under Section 2 of Regulation I. of 1798, and Sections 7 and 8, Regulation XVII. of 1806, nor of Act XL. of 1858, nor of those passed under Section 15 of Act XIV. of 1855, nor under Sections 246 and 269 of Act VIII. of 1859, nor in short of any order passed with reference to immovable property in any of the miscellaneous cases entered in the Monthly Statement No. 2 which have not been explicitly mentioned in these rules.

18. It only remains for the Court to notice other portions of the Registration Act which affect the duties of Civil Judges.

19. The instruments of which registration is compulsory are described in Section 17, in connection with which Section 49 should be read. This Section declares that "no instrument required by Section 17 to be registered shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any public servant, as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of this Act."

20. In Section 18 are mentioned the documents of which registration is not compulsory, but optional. The privileges which attend the registration of the documents specified in

Clauses 1, 2, and 3 of Section 18 are declared in Section 50, which enacts that such instruments duly registered "shall take effect as regards the property comprised therein against every unregistered instrument relating to the same property, whether such instrument be of the same nature as the unregistered instrument, or not." Section 48 further enacts, with reference to "all instruments duly registered under Act XX. of 1866 and relating to movable property," that they shall "take effect against any oral agreement or declaration relating to the same property."

21. The time from which a registered document operates is specified in Section 47. The period of six years, from the time when the cause of suit arose, is the limitation fixed by Section 51 of Act XX. of 1866, and also by Clause 16, Section 16 of Act XIV. of 1859, for suits to recover money lent on interest, or for the breach of any contract, when such engagement in writing has been duly registered under the Act.

22. The mode in which Civil Courts are to enforce obligations which have been *specially* registered under Section 52, is laid down in Sections 53, 54, and 55, to which the High Court request the careful attention of all Civil Judges. The Court content themselves with observing that, contrary to the provisions of Act XVI. of 1864, the record of agreement made by the parties needs to be signed only by the Registering Officer and the obligor.

23. Section 84 is also an important provision of the law, but it applies exclusively to the Courts of District Judges. The High Court expect that all cases of this description will be taken up and decided soon after the presentation of the petition, as it is a matter of importance that there should be no delay in such cases.

24. The Judges will open a new head in the Monthly Statement, No. 2, for "Petitions under Section 84 of Act XX. of 1866, to establish a right to have a document registered," and another for Petitions under Section 53 of the same Act to enforce agreements recorded on specially registered obligations.

FORM A.

Serial No. of registered instruments, with Page, No., and Volume of Register in which it has been entered.	Names of parties to and No. of the suit, and whether an original or appeal suit.	Description of the immovable property referred to in the instrument.	Effect of the decree or order on the instrument.	Date on which decree or order was passed.	Name and official designation of Officer by whom the decree or order was passed.	Fees for Registration.
No. 1 of 1865, 1st January, 1865. Register of Hooghly.	Ram Dass *versus* Hurro Chunder Dass. Original suit, No. 16 of 1865 (or Appeal No. 120 of 1865).	10 beegahs of land, Mouzah Shahpore, or Pergunnah Selimabad, Zillah Hooghly, bounded on the north by, &c., &c.	Declares it to be invalid.	10th July, 1865.	Mr. John Smith, Judge of Hooghly.	

FORM B.

Names of parties to and No. of the suit, and whether an original or appeal suit.	Description of the immovable property affected by the decree or order.	Effect of the decree or order on the said property.	Date on which decree or order was passed.	Name and official designation of Officer by whom the decree or order was passed.	Fees for Registration.
Obhoy Churn Mitter *vs* Kalidass Mitter. Original suit No. 9 of 1865 (or Appeal No. 200 of 1865.)	Zemindary A in the Zillah of Hooghly.	Declares the adoption of the plaintiff to have been invalid, and declares the succession of the defendant to the said property as the nearest heir of the late proprietor under the Law.	15th May, 1865.	Baboo Rampershaud Mookerjea, Principal Sudder Ameen.	

Quarterly Statement.

FORM C.

Name and designation of Civil Judge.	Number of decrees and orders passed relating to immovable property.	Number of Memorandum sent in accordance with Sections 41 and 42, Act XX of 1865, (state separately.)

Circular, No. 25.

DATED CALCUTTA, THE 6TH JULY, 1866.

Mr. Justice Trevor.

The acompanying copy of Government letter, No. 3436, dated the 25th ultimo, exempting Syud Sufder Ali Khan of Moorshedabad from personal attendance in the Civil Courts of Lower Bengal, is hereby circulated for general information and guidance.

(Copy.)

I am directed to request that, with the permission of the Hon'ble Judges of the High Court, you will have the goodness to include the name of Syud Sufder Ali Khan of Moorshedabad, in the list of persons who have been exempted from personal attendance in the Civil Courts under the provisions of Section 22, Act VIII. of 1859.

Circular, No. 26.

DATED CALCUTTA, THE 9TH JULY, 1866.

Mr Justice Trevor.

The attention of all Civil Judges subordinate to the High Court is drawn to the revised rules for the transmission of Official Correspondence under the New Post Office Act (XIV. of 1866), published in the Notification of the Home Department, No. 567, dated 4th May last,* and they are requested to give effect to the instructions of the Government of India from the 1st August next.

* Vide *Calcutta Gazette* for 1866, pp 1015-16.

2. With reference to the list of *Privileged Offices* appended to the rules, it will be seen that the instructions contained in paras. 2, 3, 4, 5, and 6 of the Notification do not apply at all to the Offices of Civil Judges subordinate to this Court, who will only need to be guided by the rules embodied in the remaining paras. which have been reproduced as an appendix to the present Circular. These paras. refer to the *three* following classes of Official Covers :—

First.—(Paras. 7, 8, 9) to those addressed to the Registrar of the High Court or to other Privileged Offices. In regard to such covers, the only point requiring the attention of Officers corresponding with them is, that each cover will bear in place of the present frank the full signature and designation of the Officer by *whom it is despatched*, as well as the Official designation of the Office to which it is directed.

Second.—(Paras. 10, 11, 12, 13, and 14) to covers not sent by or to a Privileged Office. Such covers will be superscribed in the same manner as those of the preceding class; but they will bear in addition *postage labels marked with the word* "Service." Service labels will be procurable at the local Treasuries or Stamp Depôts, and Civil Judges are required to make immediate arrangements for supplying themselves with a number sufficient for a month's use in respect of covers addressed by them to

Offices not privileged or beyond the limits of their own districts. The supply will have to be renewed every successive month.

Third.—(Para. 15) to correspondence between Local Officials within the same District. No change is made in existing arrangements for such correspondence.

Extract from a Notification from the Home Department, Simla, No. 567, dated the 4th May, 1866.

Official covers addressed to a Privileged Office.

Para. 7.—Official covers addressed to a Privileged Office by any Office not included in the Privileged List must be endorsed "On Her Majesty's Service only," under the full signature and Official designation of the person by whom they are despatched.

8. The address must include the Official designation of the Office to which the cover is directed.

9. The official covers for each Office will be enclosed in the official bag, and sealed and sent out with the ordinary delivery, or given to the messenger of the Office, should one be in attendance.

Official covers not sent by, or addressed to, a Privileged Office.

Para. 10.—Official covers which are not sent by, or addressed to, a Privileged Office, will be treated in all respects like private covers. Postage labels, marked with the word "Service," will be made available for the pre-payment of such covers.

11. Service labels are never to be used in payment of the postage of any letter which is not *bonâ fide* and exclusively on Her Majesty's Service. Every cover pre-paid by Service labels must be endorsed "On Her Majesty's Service only," under the full signature and official designation of the person by whom it is despatched. The address must also include the official designation of the Office to which it is directed. If the above conditions be not observed, covers (even though stamped with Service labels) will be treated as ordinary unpaid covers.

12. Service labels will be procurable at the Treasury or local Stamp Depôts of each District; Officers requiring such labels will purchase the number required, paying for the same in cash, as if they were ordinary postage labels. A receipt for the amount to be given by the Officer in charge of the Stamp Depôt, will serve as a voucher for the charge to be made in the Contingent Bill of the purchaser.

13. As the present supply of Service labels is limited, no Public Officer should purchase more than he estimates will be sufficient for one month's supply; and it is to be remembered that Service labels are not to be attached to letters addressed to, or despatched from, any Privileged Office.

14. All officials who do not belong to Privileged Offices, and who have official correspondence with other than Privileged Offices, will have to make arrangements for supplying themselves with Service labels either by direct purchase or through their departmental superiors.

Correspondence of Local Officials within the limits of their respective Districts.

Para. 15.—For the present, no change will be made in the arrangements under which the public correspondence of Local Officials in conveyed, within the limits of their respective Districts, by District Post, or by General Post.

(The list of Privileged Offices first issued was superseded by a new list for which see below, Circular, No. 30, *dated* 11*th August,* 1866.*)*

Circular, No. 27.

DATED CALCUTTA, THE 10TH JULY, 1866.

Mr. Justice Trevor.

The Court are pleased to direct that, when an offence has been committed in or before a Civil Court, and it appears to the presiding Judge that the charge falls under two or more heads, all of

which are not triable by a Court of Session exclusively, the Civil Court shall proceed under Section 171, rather than under Section 173, of the Code of Criminal Procedure; that is to say, in place of completing the investigation itself with a view to commitment, it shall send the case for investigation to any Magistrate having power to try, or commit for trial the accused person for the offence charged.

Circular, No. 28.

DATED CALCUTTA, THE 20TH JULY, 1866.

Mr. Justice Trevor.

All Civil Judges are hereby requested to make the following correction of a clerical error in the English and Vernacular copies of the Rules which were circulated with Circular Order, No. 22, dated the 13th June, 1865. In the last Clause of Rule 8th, the words "Sections 53 or 54 of Act XX. of 1865" should be read "Sections 53 or 55 of Act XX. of 1866"; the allusion being, not to the "Pleaders,' Mooktars,' and Revenue Agents' Act, 1865," but to the "Indian Registration Act, 1866."

Circular, No. 29.

DATED CALCUTTA, THE 7TH AUGUST, 1866.

Mr. Justice Trevor.

I am directed to inform you that Baboo Gourhurry Bose, late a Pleader of this Court, has resigned the Office of Pleader, and that his resignation was accepted on the 20th of April last. As he has been unable to return his sunnud by reason of its having been lost, the Court requests that, should it ever happen to be presented before you, you will forward it to the Court accompanied by a statement of the particulars regarding its presentation with as little delay as possible.

Circular, No. 30.

DATED CALCUTTA, THE 11TH AUGUST, 1866.

Mr. Justice Trevor.

The attention of all Civil Judges, subordinate to this High Court, is drawn to the following revised list of Public Offices published by the Home Department,* in supersession of that notified on the 4th May last; and they are requested to cause it to be substituted for the list appended to Circular Order No. 26, dated the 9th ultimo :—

* Notice No 2957, dated 20th July 1866.

List of Public Offices with which the Post Office will keep accounts of Postage on official letters received and despatched, and for which official bags will be made up.

1. Accountant-General, or Deputy Accountant-General, in a Presidency or Province.
2. Accountant-General, Public Works Department.
3. Adjutant-General and Assistant Adjutant-General of Division.
4. Army Clothing Superintendent.
5. Board of Revenue, or Financial Commissioner.
6. Brigade Major, or Station Staff.
7. Chief Commissioner and Personal Secretary.
8. Chief Engineer and Secretary, Public Works Department.
9. Chief Inspector of Musketry.
10. Commander-in-Chief and Military Secretary to ditto.
11. Commissary-General.
12. Commissary of Ordnance.
13. Commissioner of Division of Revenue and Settlement.
14. Consulting Engineer.
15. Comptroller-General of Accounts.
16. Controller-General, Military Expenditure.
17. Controller of Military Accounts.
18. Controller of Public Works Accounts.
19. Customs Commissioner.
20. Deputy Inspector-General of Ordnance.
21. Deputy Inspector-General of Hospitals.
22. Director of Public Instruction.
23. Electric Telegraph Office.
24. Examiner of Commissariat and Stud Accounts.

25. Examiner of Medical Accounts.
26. Examiner of Ordnance, Barracks, Clothing, and Regimental Necessaries' Accounts.
27. Examiner, Pay Department.
28. Financial Department, Secretary's Office.
29. Foreign Department, ditto.
30. Gazette, Official, Superintendent.
31. General Superintendent for the Suppression of Thuggee and Dacoity.
32. Geological Survey, Superintendent.
33. Governor-General and Governor, and Private or Military Secretary to ditto.
34. Home Department, Secretary's Office.
35. India Office, London.
36. Inspector-General or Conservator of Forests.
37. Inspector-General of Hospitals.
38. Inspector-General of Jails.
39. Inspector-General of Ordnance.
40. Inspector-General of Police.
41. Inspector-General of Military Works.
42. Judge Advocate-General.
43. Legal Affairs, Superintendent and Remembrancer.
44. Lieutenant-Governor and Private Secretary to ditto.
45. Principal Medical Store-keeper.
46. Military Accountant.
47. Military Department, Secretary's Office.
48. Mint Master and Head Commissioner or Commissioner for the Issue of Paper Currency at the Presidency.
49. Post Office.
50. Presidency Pay Office.
51. Principal Inspector-General, Medical Department.
52. Public Works Department, Secretary's Office.
53. Quarter Master-General.
54. Registrar to the Diocese.
55. Registrar of High Court.
56. Registrar-General of Assurances.
57. Resident and Political Agent.
58. Secretariat of Local Government or Administration.
59. Secretary to Commander-in-Chief of Her Majesty's Naval Forces.
60. The Bishop.
61. Superintendent of Stamps and Stationery.
62. Superintending Engineer.

63. Surveyor-General.
64. Superintendent, Great Trigonometrical Survey.
65. Superintendent and Commissioner of Survey.
66. Superintendent-General and Superintendent of Vaccine.
67. Superintendent-General and Chief Engineer of Irrigation.

Circular, No. 31.

DATED CALCUTTA, THE 14TH AUGUST, 1866.

Mr. Justice Trevor.

With reference to the instructions recently issued by the Director-General of Post Offices to Officers of that Department, and cited on the margin for facility of reference, it is hereby requested that all covers sent by post to this Office on Her Majesty's Service, be addressed *to the Registrar of the High Court, Appellate Side*, even when they contain letters addressed to the Deputy Registrar, or parcels made up of judicial proceedings.

"At the Presidency Post Offices, the Clerk in charge, and at other Post Offices, the Post Master, will be held responsible that no letter from a Public Office is allowed to pass as *official paid*, which is not properly signed or stamped and endorsed by the certifying Officer, and that *no letter is sent to any Public Office, unless it is addressed to the official designation of the Principal of the Office*, and is certified by the signature of the sendor as on Her Majesty's Service. Letters, irregular in these respects, will be treated as ordinary correspondence, and charged with the full rate of letter postage."

Circular, No. 32.

DATED CALCUTTA, THE 15TH AUGUST, 1866.

To all Judges of Courts of Small Causes in the Mofussil.

The Chief Justice.
Mr. Justice Trevor.
" Loch.
" Bayley.
" Norman.
" Kemp.
" Seton-Karr.
" Jackson, L.S.
" Pundit.

All Judges of Courts of Small Causes constituted under Act XI. of 1865, are hereby informed that the Rules prescribed by the High Court, in pursuance of Section 37 of Act XX. of 1865, and published in every issue*

* *Vide* Nos. of the Gazette, dated 4th, 7th, 11th, 18th, and 25th.

Mr. Justice Campbell.
„ Jackson, E.
„ Macpherson.
„ Phear.
„ Markby.

of the *Calcutta Gazette* for July 1866, so far as they are applicable, extend to Courts of Small Causes.

The following special Rule is laid down for Small Cause Courts in the Mofussil:—

RULE 8A.

The amount in respect of the fee of an adversary's pleader, when allowed in any Miscellaneous proceeding, or for any other matter than that of appearing, acting, or pleading in a suit prior to decree, shall be fixed by the Court according to the following scale, *viz.*:—

One Rupee to 6 Rupees in proceedings connected with cases not exceeding Rs. 500 in value.

The above scale will apply to applications under Section 53 or 55 of the Indian Registration Act XX. of 1866.

Circular, No. 33.

DATED CALCUTTA, THE 23RD AUGUST, 1866.

Mr. Justice Trevor.

It is hereby notified that a Pleader, whether of the Senior or of the Junior grade, holding a Certificate under Act XX. of 1865 and the High Court's Rules of the 2nd May last, is not restricted by such Certificate to any particular Court, or to a single District; but is entitled to appear, plead, and act in any Court subject to the jurisdiction of the High Court, included within the class of Courts covered by his Certificate: in other words, in any Court, in whatever District situated, falling within the particular Clause (*a.*, *b.*, *c*, or *d.*) of Section 10, Act XX. of 1865, to which his Certificate relates.

Circular, No. 34.

DATED CALCUTTA, THE 11TH SEPTEMBER, 1866.

Mr. Justice Trevor.

To enable it to exercise a more effective supervision over the proceedings of the Civil Courts in cases of execution of decree, the High

Court is pleased to direct that a column be inserted in the monthly Statements Nos. 2 and 3, showing the number of such cases pending more than* three months. Cases pending for more than one year will be separately shown in the column set apart for the purpose; and explanation will be required in regard to all cases pending more than three months. The explanation should invariably mention the date of the last *bonâ fide* application in execution, that is, the last application which was followed up by some act done in furtherance of execution, either by the Court or the Judgment-Creditor.

Circular, No. 35.

DATED THE 11TH SEPTEMBER, 1866.

Forwards for the purpose of report, copy of a letter from the Secretary to *the Committee appointed to report on increasing the salaries of Ministerial Officers* and requests submission of the report and returns to the Committee direct.

Circular, No. 36.

DATED CALCUTTA, THE 12TH SEPTEMBER, 1866.

Mr. Justice Trevor.

The number of cases exhibited in the Periodical Statements as having been remanded by the Lower Appellate Courts, leads the High Court to doubt whether sufficient regard is commonly had to the provisions of Sections 351 and 352 of the Civil Procedure Code. The Court, therefore, direct me to bring to your notice that by Section 351, a remand may be ordered when the Lower Court has disposed of the case on some preliminary point, *so as to exclude any evidence of fact* which shall appear to the Appellate Court essential to the rights of the parties,

* Now "*six months*."—*See* Circular Order, No. 46, dated 1st December, 1866.

and the decision of the Lower Court, upon such preliminary point, has been reversed in appeal; and also that by Section 352 it is not competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section, that is, unless the case has been decided on a preliminary point which has been reversed, and *that* decision has excluded any evidence of fact, which is necessary to the full elucidation of the rights of the parties in the suit.

2. The High Court, also, has reason to believe that, in many instances, the Lower Appellate Courts remand cases decided below, on a preliminary point, or on erroneous grounds, even when the evidence upon the record is sufficient to enable the Appellate Court to pronounce a satisfactory judgment in the case. This course of procedure, I am to remark, is opposed to Section 353 of the Code of Civil Procedure Again, cases are frequently remanded when the Lower Court has omitted to raise or try any issue, or to determine any question of fact which, in the opinion of the Appellate Court, is essential to the right determination of the suit on its merits, and the record is not sufficient to enable the Appellate Court to determine such issue on questions of fact. Such remands, I am directed to observe, are not warranted by Law. In such cases Appellate Courts are competent, under Section 354, to frame an issue or issues, and to refer them to the Lower Court for trial. The Lower Court is thereupon to proceed to try such issue or issues, and to return to the Appellate Court its finding, together with the evidence.

3. If further evidence in the shape of a report of an Ameen, or of any other nature, be required by the Appellate Court, the case should not be remanded for that purpose; but under Sections 355 and 356, the Appellate Court should either require the Lower Court to order the preparation of such reports, or take the evidence required and transmit it to the Appellate Court; or should take the evidence, if it can be so

taken, before itself, the Appellate Court being careful always to record the reasons for the admission of additional evidence.

4. The Court direct very particular attention to these instructions.

Circular, No. 37.

DATED THE 20TH SEPTEMBER, 1866.

Forwards, for the information and guidance of all Civil Judges subordinate to the High Court, a copy of a letter No. 2671, *from the Officiating Registrar-General, Lower Provinces, to the Registrar of the High Court, dated Fort William, the* 25*th July*, 1866.

Mr. Justice Trevor.

In reply to your letter No. 2287, dated 13th instant, I have the honor to say that the Memo. A, to be despatched by the Civil Courts, under Section 42 of the Registration Act, should, for the current year, be engrossed on hand-laid demy paper, supplies of which can be issued by the Superintendent of Stationery, printed in whatever form may be prescribed by the Court.

In future I shall take measures to have a sufficient supply of hand-laid medium indented for, that all the Registers of this Department may be uniform.

2. As Memoranda forwarded under Section 41 have to be *copied* into the Registers, it does not signify what size or description of paper is issued, but probably foolscap would, for some reasons, be most convenient.

Circular, No. 38.

DATED THE 26TH SEPTEMBER, 1866.

I am directed to request that, when submitting your Civil Statements for the current month, you will insert, under each subordinate Judicial Officer's name, the District in which his family residence is situated, and state whether he is well acquainted with English or not.

Circular, No. 39.

DATED CALCUTTA, THE 29TH SEPTEMBER, 1866.

Mr. Justice Trevor.

The Rules alluded to in Section 80 of the Indian Registration Act (XX. of 1866) having been framed by the Registrar-General of Assurances, and approved and published* by the Local Government—the Court are pleased, in continuation of para. 10 of Circular Order No. 24, dated 19th June last, to forward Rules 44 and 45 for the information of Judicial Officers of every grade in the Mofussil, and to request their particular attention to the instructions contained therein, as to the Officer to whom the costs of registration are to be paid on realization.

* *Vide* Notification dated 12th May 1866, at page 1046 of *Calcutta Gazette* of the 23rd May 1866.

Section 43.

Rule 44.—"The costs of registration of Memoranda under the above Section, will be paid in by the several Courts to the Registrar's Office on realization; the form of Memorandum shall contain a specification of the fee to be levied, and the registration of the Memorandum shall not be delayed till the receipt of the fee.

Rule 45.—"A running list of unpaid fees due on registered Memoranda shall be kept up; and on the receipt of any fee, the entry relating to such fee shall be struck out; the total of unpaid fees shall be reported every month to the Registrar-General."

Circular, No. 40.

DATED CALCUTTA, THE 2ND OCTOBER, 1866.

To Judges of Small Cause Courts.

Mr. Justice Trevor.

The High Court is pleased to direct the destruction once a year of the records of all cases disposed of in the Courts of Small Causes, in which execution has been completely obtained, or in which three years have passed since the last attempt to execute was made, and when any further execution would be barred by the law of limitation. The Summons Book and Register will afford all information that can afterwards be required.

Circular, No. 41.

DATED CALCUTTA, THE 2ND OCTOBER, 1866.

Mr. Justice Trevor.

The High Court have frequently observed that cases remain for an unreasonably long time pending in the Mofussil Courts, for the undelivered reports of Ameens entrusted with the duty of local investigations, and the delay on the part of these Officers is commonly attributed to the great number of cases with which they are charged. The Court has now ample proof before it that very many of the cases referred by Judges to Ameens for local inquiry never should have been so referred. With a view, therefore, of obviating the delay which occurs through a course of procedure not authorized by law, the High Court deem it proper to impress upon the subordinate Courts of every grade that local investigations by Ameens should only be ordered in cases where they are absolutely required by the Courts on subordinate points, for a determination of the main issue in the case; for instance, in cases in which it is necessary to ascertain by measurement disputed areas of land, or to ascertain whether particular lands are identical with lands detailed in documents when the fact is disputed; and in such like instances. When, however, any fact can be elicited by evidence, that evidence should be heard by the Court itself, and not by an Ameen. With a view, too, both of shortening the trial in many cases, and of assisting the Courts in the examination of witnesses, it will be well if, when a map or measurement of the locality appears from the issues to be absolutely necessary, orders to prepare it are passed at the time of the fixing of issues. The map and the report of the Ameen can then be tested by the examination of the witnesses, and the Courts will be in a better position to conduct this examination, than they are under the present system.

If these instructions be carried out, the High Court believe that Ameens being only employed in cases in which their services

are essential, the Mofussil Courts will be enabled to dispose of suits more promptly and satisfactorily, and litigants will, in many cases, be saved the extra expense entailed by local investigations.

Circular, No. 42.

DATED THE 2ND OCTOBER, 1866.

Forwards, for the information and guidance of the Civil Authorities in the Lower Provinces, copy of a letter No. 2020 T. from the Secretary to the Government of Bengal, to the Officiating Registrar, High Court, dated Darjeeling, the 6th September, 1866.

I am directed to acknowledge the receipt of your letter, No. 2873, dated the 27th ultimo; and in reply to state, for the information of the Hon'ble Judges of the High Court, that the Lieutenant-Governor, adopting the Court's view of the question, has been pleased to decide that Moonsiffs shall be placed on the same footing as Deputy Magistrates and Deputy Collectors, in respect to the indulgence of punkahs and punkah-pullers in the hot season.

2. All charges under these orders for the current year, should be included in the contingent bills of the Zillah Judges; special provision being made for the charge in the estimates of ensuing years.

Circular, No. 43.

DATED CALCUTTA, THE 6TH OCTOBER, 1866.

Mr Justice Trevor.

All Zillah and Subordinate Judges are requested, as soon as possible, after the re-opening of the Courts at the close of the ensuing Dusserah vacation, to inform the High Court whether, in consequence of the new method of transacting business in the Civil Courts adopted since the enactment of Act VIII. of 1859, they would recommend, keeping the numerical force at the present figure, any re-distribution of the salaries of their Ministerial Officers; or whether they would diminish their number in the gross, or reduce the number of the Native, and increase that of the English hands of the establishment. The Court require all Judges to send up a clear Tabular Statement

of the alterations they would suggest, bearing distinctly in mind that the gross expenditure should not be increased.

2. The Returns of the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs should be submitted through the Zillah Judges, who will abstract and tabulate the information afforded, and lay it before the Court in the prescribed form.

Circular, No. 44.

DATED CALCUTTA, THE 10TH OCTOBER, 1866.

Mr. Justice Trevor.

The Court, having reason to believe that the column relating to Ameens' fees in Statement A, as well as that showing Ameens' salaries in Statement B, prescribed by Circular Order, dated 13th February, 1865, No. 2 (as modified* by Circular Order, dated 23rd March, 1866, No. 12), are not always prepared correctly, are pleased to circulate the following instructions for general observance in the preparation of the columns in question :—

* *N. B.*—The effect of the modification is confined to the column about fees which was at first Column 5, but is now Column 7 of Statement A.

The Returns should include all money received on account of Ameens' fees, whether the Ameen be one appointed under the Act, or temporarily employed under Sections 180 and 181 of Act VIII. of 1859. The fees should be invariably credited to Government, as required by Section 9, Act XII. of 1856, and shown in Column 7, Statement A, as also the amounts paid as salary, whether of a permanent or a temporary nature, which should be exhibited in Column 4, Statement B.

Circular, No. 45.

DATED CALCUTTA, THE 12TH OCTOBER, 1866.

Mr. Justice Trevor.
" " Loch.

The High Court is pleased to forward, for the information of all Judges of Civil Courts, the following Rule* which has been made by the Lieutenant-Governor of Bengal, with a view to securing the personal attendance of any prisoner confined in a Civil Jail, when required either as a party or as a witness in a Civil suit :—

* Dated 20th July, 1866.

RULE.

"Under the provisions of Section 7 of Act II. (B. C.) of 1864, the Lieutenant-Governor of Bengal is pleased to notify the following Rule :—

"Whenever, in a suit instituted in any Civil Court, it shall appear to the satisfaction of the Judge that the personal attendance of any prisoner confined in any Civil Jail, is necessary either as a party or witness in that suit, it shall be competent to the Court to issue a writ, under its hand and seal, addressed to the Officer in charge of the Jail, calling upon him to make over charge of the prisoner named therein to an Officer of the Court, to be deputed for the purpose of producing him in Court at a time to be specified in the warrant. The Officer so deputed, shall be responsible for the safe custody of the prisoner from the time he receives charge of him, until he is re-committed to the Jail."

Circular, No. 46.

DATED CALCUTTA, THE 1ST DECEMBER, 1866.

Mr. Justice Trevor.
" " Loch.

In modification of the instructions contained in Circular Order, No. 34, dated the 11th of September last, the High Court is pleased to direct that the cases exhibited in the new column therein prescribed, be such only as are pending more than *six* (not "three") months, and that the explanation afforded, be confined to such cases alone.

Circular, No. 47.

DATED CALCUTTA, THE 5TH DECEMBER, 1866.

Mr. Justice Trevor.

I am directed to request that you will be so good as to inquire and report, for the information of the Court, the *actual* expense incurred in each of the years

	Quantity.	Cost.
Serampore paper,...	„	„
Bengalee „ ...	„	„
Ink, ...	„	„
Oil, ...	„	„
Sealing-wax, ...	„	„
Cloth, ..	„	„
Wax-cloth, ...	„	„

1864 and 1865 by the Sudder Ameen of your District in his double capacity of Sudder Ameen and Sudder Moonsiff, on account of stationery, under the several heads specified on the margin. It will be unnecessary to state how much was expended in each month; the total amount spent under each head for the year will suffice.

Circular, No. 48.

DATED CALCUTTA, THE 13TH DECEMBER, 1866.

Mr. Justice Trevor.

The Government of Bengal having, by Notification dated the 22nd November last,* fixed the last Monday of the month of January next ensuing for the examination of applicants for admission as Pleaders in the Mofussil Courts; and as under the Rules† drawn up by the Court on the 2nd May last, under Section 4, Act XX. of 1865, every candidate for such examination must give notice to the Judge of the District in which he resides of his intention to present himself for examination six weeks at least previously, that is to say, *on or before the 17th instant*, the Court presume that each Judge will be able to ascertain immediately after the date last mentioned, *how many* candidates are expected to appear at the coming examination. They request accordingly that a report may be submitted to them by each Judge, in time to reach them before the close of December, of the number of intending applicants for each of the standards of examination.

* *Vide* page 2051, *Calcutta Gazette*, dated 28th November, 1866.

† Rules 11 and 21.

Circular, No. 49.

DATED CALCUTTA, THE 29TH DECEMBER, 1866.

The Chief Justice.
Mr. Justice Trevor.

It is hereby notified, for general information, that the High Court and its subordinate Civil Courts will be closed in the year 1867, on the dates indicated in the annexed List.

It is expected that the Civil Courts will not be closed, except on authorized Holidays.

List of the Holidays for

Names of Holidays.	English Date.	Bengáli Date.
New Year's Day and the two days following, ...	1st to 3rd January.	18th to 20th Pous, 1273.
Idul-fetar, ...	7th & 8th February.	26th & 27th Mágh, 1273.
Basant Panchami, ...	9th & 10th February.	28th & 29th Mágh, 1273.
Shibu Ráttri, ...	4th & 5th March.	21st & 22nd Phálgun, 1273.
Dole Játtra, ...	20th & 21st March.	7th & 8th Chaitra, 1273.
Báruni Asnán, ...	2nd April.	20th Chaitra, 1273.
Mahábisham-Sankránti, ...	12th April.	30th Chaitra, 1273.
Rám-Nabomi, ...	13th April.	1st Baisákh, 1274.
Id-uz-Zohá, ...	16th & 17th April.	4th & 5th Baisákh, 1274.
Good Friday and the day following, ...	19th & 20th April.	7th & 8th Baisákh, 1274.
Moharram, ...	11th to 15th May.	29th Baisákh to 2nd Joishto, 1274.
Queen's Birth-day, ...	24th May.	11th Joishto, 1274.
Dashahára Gángá-Asnán, ...	11th June.	29th Joishto, 1274.
Akheree-Chahár Shambah, ... Rath Játtrá, ...	3rd July.	20th Assár, 1274.
Ultá Rath, ...	11th July.	28th Assár, 1274.
Fáteha-Duazdaham, ...	15th July.	32nd Assár, 1274.
Janma Ashtomi,...	22nd & 23rd August.	7th & 8th Bháddra, 1274.
Dusserah Vacation, including Mahálayá, ... Lakkhi Pujá, Dewáli, and Bhrátaditia,...	27th Sept. to 29th Oct.	12th Assin to 13th Kártik, 1274.
Jaggatdhátri-Pujá, ...	6th & 7th Nov.	21st & 22nd Kártik, 1274.
Kártik-Pujá, ...	15th & 16th Nov.	30th Kártik & 1st Aghrán, 1274.
Shab-e-Barát, ...	12th Dec.	27th Aghrán, 1274.
Christmas Day and the two days following, ...	25th to 27th Dec.	11th to 13th Pous, 1274.

the Year 1867.

Days of the Week.	Number of Days.	Remarks.
Tuesday to Thursday.	3 days.	
Thursday & Friday.	2 days.	But if the Moon be not visible on the 6th of February, then on the 8th and 9th of February.
Saturday & Sunday.	2 days.	
Monday & Tuesday.	2 days.	
Wednesday & Thursday.	2 days.	
Thursday.	1 day.	
Friday.	1 day.	
Saturday.	1 day.	
Tuesday & Wednesday.	2 days.	But if the Moon be not visible on the 6th of April, then on the 17th and 18th of April.
Friday & Saturday.	2 days.	
Saturday to Wednesday.	5 days.	But if the Moon be not visible on the 5th of May, then from the 12th to 16th of May.
Friday.	1 day.	
Tuesday.	1 day.	
Wednesday.	1 day.	
Thursday.	1 day.	
Monday.	1 day.	But if the Moon be not visible on the 3rd of July, then on the 16th of July.
Thursday & Friday.	2 days.	
Friday to Tuesday.	33 days.	
Wednesday & Thursday.	2 days.	
Friday & Saturday.	2 days.	
Thursday.	1 day.	But if the Moon be not visible on the 28th of November, then on the 13th of December.
Wednesday to Friday.	3 days.	

Circular, No. 1.

DATED CALCUTTA, THE 4TH JANUARY, 1867.

Mr. Justice Trevor.
" " L. S. Jackson.

Much inconvenience being occasioned by Zillah Judges making Returns in the Vernacular, and not in the prescribed form, to precepts directing inquiry into the value of securities in cases of appeal to Her Majesty in Council, and to other orders in such cases, which Returns must afterwards be translated for incorporation in the proceedings, the attention of the Zillah Judges is called to the subject, and they will be good enough invariably to make their Returns, in matters connected with appeals to Her Majesty in Council, in the *English language*.

The Court will expect this order to be carefully observed, and the Judge's attention is further drawn to the Rules of Practice* in respect of such appeals, by which the duty of making inquiries as to the sufficiency of security is imposed in the first instance on the Judges themselves, and is not to be delegated to subordinates. This need not prevent the Judges from directing a local inquiry upon any particular point in the investigation which, for special reasons, they may find it necessary to order, and which they cannot conveniently conduct themselves.

* Resolution of the Presidency Court of Sudder Dewanny Adawlut, dated the 7th of December, 1858, *viz.*:

Rule X.—For this purpose† it will be merely necessary for the Zillah Judge, instead of ascertaining questions of possession and value by the agency of his Nazir, as has been the usual practice, to pursue the enquiry himself (*first*,) by a proclamation of the tender made in the Court of the Judge, and of any Moonsiff, within whose jurisdiction any portion of the property may be situate; and (*next*,) by requiring the surety to present *primâ facie* proof of possession, *viz.*, his deeds, papers, and documents, and to produce witnesses personally cognizant of the fact.

† That is, that the Judge may certify to the sufficiency of the security tendered by the appellant, after due enquiry and hearing of such objections as may be urged, within two months from the date of receipt by him of this Court's orders.—Rule IX.

Circular, No. 2.

DATED CALCUTTA, THE 14TH JANUARY, 1867.

Mr. Justice Trevor.

The High Court is pleased to direct that, in Civil cases sent up to it in appeal, in which the preparation of maps may have been necessary for the elucidation of any points of importance, such maps may be pasted upon cloth before being despatched with the Records. The Court has at times been subjected to much inconvenience from the tattered condition in which maps in important cases have come before it.

Circular, No. 3.

DATED CALCUTTA, THE 16TH JANUARY, 1867.

Merely directs that the Annual Civil and Criminal Returns be submitted by the 15th, or as much earlier as possible.

Circular, No. 4.

DATED CALCUTTA, THE 16TH JANUARY, 1867.

The Chief Justice.
Mr. Justice Trevor.
" " L.S. Jackson.

The Court having observed, in several cases which have recently come before them, that the decree of the subordinate Appellate Court has not contained the Memorandum of Appeal, and much inconvenience being found to result from the omission, the attention of Zillah Judges and Principal Sudder Ameens is directed to the provisions of Section 360 of the Civil Procedure Code, which require that the Memorandum should be embodied in the decree: and to the terms of Section 334, which points out what the Memorandum itself must contain.

2. It is not enough, the Judges will observe, to set out the first ground of appeal before them followed by the words "et-cætera," but all the grounds of appeal must be stated *seriatim*,

so that the High Court may know, when the judgment on appeal comes before them, upon what grounds the appeal was preferred to the lower Appellate Court.

Circular, No. 5.

DATED CALCUTTA, THE 4TH FEBRUARY, 1867.

Mr. Justice Trevor.

The High Court is pleased to direct that the Records of Execution Cases, sent up in appeal to it, be invariably submitted complete, that is, that all the papers connected with them in the Lower Courts, whether original or appellate, be sent up, so that they may be at hand, should a reference to the same be required by the Court.

Circular, No. 6.

DATED CALCUTTA, THE 18TH FEBRUARY, 1867.

The Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Norman.
" " L. S. Jackson.

It is the practice, in pursuance of a Circular Order of the late Sudder Court, dated 3rd March 1852, No. 167,* to divide the papers making up the record in Civil suits into two portions, called respectively Nuthi A and Nuthi B. It was the intention of that Court, in issuing the Circular in question, to separate from the record all purely formal and useless papers, so that all material parts thereof might be presented to the Appellate Courts unencumbered by what was unimportant and indeed useless.

* Page 469, Carrau, and ante, page 118.

2. It has been found in practice that, from want of proper attention, many papers come to be attached to the Nuthi B, which ought not to be there, and which are, in fact, important papers in the cause. The result is that, in some cases, the

pleaders on both sides, as well as the Court, are in ignorance of the existence of material papers; and that, when the absence of such papers is discovered, the procuring them from the Court below occasions no trifling delay.

3. By Section 343, Civil Procedure Code, it is provided that, on receipt of intimation that an appeal has been "preferred, the lower Court shall * * * transmit to the Appellate Court, with all practicable dispatch, all material papers in the suit, or such papers as may be specially called for by the Appellate Court." If this direction of the law were carefully followed by the Zillah Judges and Principal Sudder Ameens, the High Court would not have so much cause to complain of the evil above mentioned, as it now has.

4. With a view to the strict observance of this Rule in future, the Court now direct that, in all cases where the record is called for on appeal, it shall be invariably accompanied by a separate certificate under the signature of the principal Ministerial Officer of the Court, from which the case is transmitted, to the effect that he sends up all material papers in the suit. Such certificate should be in the words following :—

Regular (or special as this may be) Appeal
No. of

Appellant.
Respondent.

I, A. B., of the Court , from whose judgment the present appeal is preferred, certify that the record herewith transmitted under orders of the High Court, dated 186 , contains all material papers in the suit, and that I have satisfied myself that no papers essential to the determination of the appeal, have been kept back under the denomination of Nuthi B, or otherwise.

Zillah A. B.
Dated *(or as the case may be).*

5. The High Court have had also frequent occasion to observe the want of order in records transmitted to them, and

the transposal, as well as the occasional disappearance, of documents and papers from the Misl. This could rarely happen if the fly leaf or Index, prescribed* by Circular Order No. 1866, dated 24th October, 1861, were properly kept up, and transmitted with the record sent up on appeal. But the Court have observed that this fly leaf is in numerous instances entirely wanting.

6. They desire, therefore, that every Zillah Judge will satisfy himself and report in a month from this time, whether the Circular Order in question is observed in his own Court and in the Subordinate Courts of the district; and that, where it has fallen into disuse, it may be revived and carefully maintained, and that the fly leaf, kept up in pursuance thereof, be in all cases transmitted to this Court, together with the Nuthi sent up on appeal.

Circular, No. 7.

DATED CALCUTTA, THE 20TH FEBRUARY, 1867.

Mr. Justice Trevor.

Baboo Prosono Coomar Tagore, C. S. I.
Baboo Ramgopal Ghose.
Moonshee Ameer Ali Khan, Bahadoor.
Baboo Degumbur Mitter.
Khaja Abdool Gunny.
Baboo Romanath Tagore.
Rajah Anundo Nath Roy, Bahadoor, C. S. I.

The Court circulate, for general information and guidance, the accompanying copy of a letter No. 884, of the 8th instant, from the Secretary to the Government of Bengal, exempting the Native Gentlemen named in the margin from personal attendance in the Civil Courts.

(Copy.)

I am directed to request that, with the permission of the Hon'ble Judges of the High Court, you will be so good as to include the gentlemen named in the enclosure in the list of persons who have been exempted from personal attendance in the Civil Courts under the provisions of Section 22, Act VIII. of 1859:—

---

* The new number is 39 and the Circular will be found at page 27 *ante* (*note*).

LIST OF NAMES.

Baboo Prosono Coomar Tagore, C. S. I.
Baboo Ramgopal Ghose.
Moonshee Ameer Ali Khan, Bahadoor.
Baboo Degumber Mitter.
Khaja Abdool Gunny.
Baboo Romanath Tagore.
Rajah Anundo Nath Roy, Bahadoor, C. S. I.

Circular, No. 8.

DATED CALCUTTA, THE 26TH FEBRUARY, 1867.

Mr. Justice Trevor.

The Officiating Registrar-General, Lower Provinces, having intimated to the High Court that printed Forms A and B, for the preparation of Memoranda under Sections 41 and 42 of the Indian Registration Act, referred to in para. 11 of their Circular, No. 24, dated 19th June, 1866, are ready for distribution, the Court request that indents may be made direct to the Superintendent of Stationery for a sufficient supply of the Forms.

Circular, No. 9.

DATED CALCUTTA, THE 26TH FEBRUARY, 1867.

The Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Bayley.
" " Norman,
" " L. S. Jackson.

The Court find it absolutely necessary to call the attention of subordinate Courts of every grade to the Sections of the Code of Civil Procedure applicable to the reception of documentary evidence; the laxity of practice prevailing on this head being productive of most serious inconvenience, and evincing in many cases total disregard of the wholesome provisions of the Law.

2. Section 39 provides that, "when the plaintiff sues upon "any written document, or relies upon any such document as

"evidence in support of his claim, he shall *produce the same in* "*Court* when the plaint is presented, and shall *at the same time* "*deliver a copy* of the document *to be filed with the plaint;* if the "document be an entry in a.....book, the plaintiff shall "produce the book to the Court, together with a *copy of the* "*entry* on which he relies. The Court shall forthwith mark the "document.....; and after examining and comparing the "copy with the original, shall return the document to the plaintiff. "The plaintiff may, if he think proper, deliver the original docu- "ment to be filed instead of the copy.....; any *docu-* "*ment not produced in Court* by the plaintiff, when the plaint is "presented, *shall not be received in evidence* on his behalf at the "hearing of the suit, without the sanction of the Court."

This latter part of the Section has reference to Section 128, which regulates the reception of documents at the first hearing, and is in these words :—

"The parties or their pleaders shall bring with them, and "have in readiness at the first hearing of the suit, to be pro- "duced when called upon by the Court, all their documentary "evidence of every description which may not already have "been filed in Court, and all documents, writings, or other "things which may have been specified in any notice which "may have been served on them respectively, within a reason- "able time before the hearing of the suit; and no documentary "evidence of any kind, which the parties or any of them may "desire to produce, shall be received by the Court at any subse- "quent stage of the proceedings, unless good cause be shown to "its satisfaction for the non-production thereof at the first "hearing."

This hearing, it will be observed, is the defendant's first opportunity (and last, unless good cause be shown) for production of documentary evidence. It is also an opportunity (and the last, unless good cause be shown) for the plaintiff, *with the sanction of the Court*, to produce any documents which he may not have produced in Court with his plaint.

3. A plaintiff occasionally has to prove his case, or a defendant to substantiate his defence to a suit, by documents in the possession or power of some other party to the suit, which documents, of course, cannot be produced by the party, whose case they are to serve.

4. When this is the position of the plaintiff, he may, under Section 40 (and ordinarily he ought), "at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same;" when this is done, the summons (*vide* Section 43) is to "order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence;" and where the production of such document is required by a defendant, or when the demand has not been made under Sections 40 and 43 on the part of the plaintiff, Section 107 provides that "he shall, at the earliest opportunity, deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party."

When such notices have been served within a reasonable time before the hearing of the suit, the party served is required by Section 128 to produce the documents therein specified at the hearing.

5. A party to the suit, or any other person, may also be *summoned* to produce a document (Section 153), if necessary, and the Court has power, under Section 170, to deal with persons being parties to the suit who fail to comply with orders to produce documents.

6. It follows from these several Sections that documentary evidence is to be produced in open Court; that it must be produced at the earliest opportunity, and not afterwards, without

the special sanction of the Court, or without good cause shown; and that where the production of such evidence rests with a party other than the party requiring it, the Court is bound, on application made to it in reasonable time, to afford its aid in enforcing the production of such evidence; and it is the duty of all Judges to take care, as far as their Courts are concerned, that these principles are observed.

7. The attention of the subordinate Courts is further called to the mode in which documents called "exhibits," including those produced by a plaintiff when his plaint is presented, and which, or copies of which, have been filed, with the plaint pursuant to Section 39, are to be received and dealt with.

8. By Section 129 they are to "be received and inspected "by the Court, but it shall be competent to the Court, after in- "spection, to reject any exhibit which it may consider irrelevant "or otherwise inadmissible, recording the grounds of such "rejection."

This means that the Court is to take care that parties are not allowed to put in exhibits, which are—

1. Irrelevant, or
2. Inadmissible.

9. The High Court cannot here lay down what documents ought to be rejected for these reasons, but they may advert to the most frequent violations of rule in this respect. These are generally (1st), the production of decisions and proceedings *inter alios*, and 2nd, the production of copies or offering secondary evidence of the contents of documents, when the originals ought to be produced, or their absence accounted for.

10. If the Courts are only resolute in exercising the vigilance which the Law requires of them, common sense will usually prevent any Judge from going far wrong in the admission or rejection of evidence. The inconvenience, of which the superior Courts have to complain, is almost invariably the result of lax procedure by which the Courts receive documents, or permit them to be received, sometimes in open Court, sometimes by

Ministerial Officers, and at all stages of the proceedings; and sometimes even look upon all exhibits which have been filed with the plaint as if they were evidence in the cause, before the Court has inspected them, or determined whether they are admissible or not. Such practice, as above shown, is wholly opposed to the letter and spirit of the Procedure Code. But the Court should be careful always, as the Law requires, to record its reasons for rejecting a document, and it should also make a note of any objection which may have been made to the admission of a document.

11. Next, an exhibit when received and admitted, is to be endorsed and filed (Section 132). It would be of great assistance to the Courts of Appeal if every Judge, when trying a case in the exercise of original jurisdiction, were to make reference, in his notes of the trial, to every exhibit which is received and admitted in evidence, referring to it by a distinguishing number. The Court, therefore, direct that, in addition to the memorandum of the substance of the evidence required by Section 172 of Act VIII. of 1859, or to the evidence itself, if taken down by the Judge, a note shall be made by the Judge of every exhibit which shall be admitted in evidence, referring to it by a distinguishing number, and of the date on which it was received, and the name of the party producing it, and also a note of the rejection of every exhibit which shall be rejected, and of the grounds of such rejection.

12. Section 132, it will be observed, repeats the direction contained in Section 39 that, if the exhibit (or document) be an entry in any shop-book or other book, the party, on whose behalf such book is produced, shall produce *a copy of the entry, which copy shall be endorsed* as aforesaid, and be filed as part of the record, *and the book shall be returned* to the party producing it, and the Court ought doubtless in these cases, as under Section 39, to *mark* the document, *i. e.*, the entry in the book for the purpose of identification before returning it.

It will be observed that the words as to the return of the book are imperative, and the party has not the option (as under Section 39) of delivering the book to be filed, instead of the copy of the entry.

13. From inattention to this rule, it has been matter of frequent occurrence for great numbers of account and other books to be received and actually filed in the subordinate Courts, and to be afterwards sent up to the Appellate Courts, to the serious inconvenience of the Courts themselves, and probably of the parties except in those cases where the books have been prepared *pro re natâ*, a thing which occasionally happens.

But the inconvenience reaches a climax, when the importance of the suit and the determination of the parties bring about an appeal to England. It then becomes *primâ facie* necessary to translate and to print the whole of the contents of those voluminous books and other papers, and the resulting costs are frequently enormous.

14. This Court is occasionally, at very great trouble to itself and to the pleaders engaged, able to apply some check to the evil; but in many instances the check has not been applied, and in consequence, the Lords of the Judicial Committee of the Privy Council have, in several instances, made complaints and observations upon the nature of the evidence sent home from this country.

The answer of this Court on these occasions has been that the evil is one with which the Appellate Courts can but imperfectly cope, and that the effectual remedy must be applied in the Courts of first instance.

And it is very much with a view to obviate these particular complaints, and to remove this just reproach from the procedure of the Courts in India, that the present instructions are issued.

15. To avoid, however, any inconvenience which may in some cases arise from the Appellate Courts having a copy of an entry in a shop-book or other book instead of the original, the Court direct that, in any case in which a Court of original juris-

diction shall have reason to distrust the original of any such entry from any thing which appears on the face of the document, such, for example, as from the entry or part of it being on an erasure, or from its being interlined or written with a different-colored ink or the like, the Judge's notes should call attention to the fact, so that the Appellate Court may, if it think it necessary, send for the original, instead of acting upon the copy.

16. The Court have too much reason to apprehend that, in the subordinate tribunals, practice is regulated more by daily habit and tradition, than by intelligent and careful study of the Code on the part of the Judges themselves, of their Ministerial Officers, and of the pleaders; and, until that study has been fully and conscientiously established, the procedure of the Courts will not be what it ought to be, remands and reversals of decisions will be frequent, the course of justice will be impeded, and suitors will be harassed.

17. The Court, therefore, desire it to be understood that, in issuing directions like the present, they do not wish to give undue prominence to any particular portion of the Code, but simply to remedy errors and inconveniences as they arise, while at the same time they urge upon the subordinate Courts the necessity of a perfect familiarity with, and attention to, the Code in every part.

Circular, No. 10.

DATED CALCUTTA, THE 1ST APRIL, 1867.

Mr. Justice Trevor.

The Government of Bengal having requested the submission of a report on the financial results of the examinations, which were held in January and February last, of candidates for admission to practise as Pleaders and Mookhtars in the Mofussil Courts, the Court requests you will be good enough to furnish, with as little delay as possible, a Statement showing the amount of fees paid by those candidates under Rules 13, 24, and 32 of the Rules drawn up in accordance with Section 4 of Act XX. of 1865.

Circular, No. 11.

DATED CALCUTTA, THE 9TH APRIL, 1867.

Mr. Justice Trevor.

With reference to the object of the rule laid down in Circular Order, No. 30, dated the 24th September, 1864, *viz.* to place Uncovenanted Judicial Officers on a footing with Covenanted Civil Servants in regard to the time allowed them for joining their appointments, and the fact that that time, in the case of the latter class of Officers, has been reduced by order of the Secretary of State, the High Court is pleased* to prescribe the following Rule in substitution of the one laid down in the Circular above mentioned :—

* Letter from Bengal Government, No. 1319, dated 2nd April, 1867.

2. Whenever an Uncovenanted Judicial Officer of any grade is appointed to a station, or transferred from one appointment to another in a different station, he shall be allowed seven days for preparation, 100 miles a day when he travels by rail, and 15 miles a day when travelling by dawk.

Circular, No. 12.

DATED CALCUTTA, THE 9TH APRIL, 1867.

Mr. Justice Trevor.

Referring to the names of the successful candidates who have been passed Pleaders of the higher and lower grades respectively, and Mookhtars in the Mofussil Courts of the Lower Provinces, published in the *Calcutta Gazette* of the 27th March last, I am directed to draw your attention to Rules 15, 16, 26, 27, 35 and 36 of the High Court's Rules of the 2nd May, 1866, prescribing the course to be followed by successful candidates in applying for enrolment, and by Judges of Districts in forwarding their applications to this Court.

Circular, No. 13.

DATED CALCUTTA, THE 11TH APRIL, 1867.

To all Small Cause Court Judges.

Mr. Justice Trevor.

I am directed to request that you will be so good as to submit, as soon as practicable, a Return showing the present scale of establishment attached to your Court, and the salary of each Officer upon it, with the monthly expenditure for stationery and Office contingencies.

Circular, No. 14.

DATED THE 25TH APRIL, 1867.

Circulates, for the information and guidance of the Civil Authorities in the Lower Provinces, with reference to Act VIII. of 1851, *and Act XV. of* 1864, *a copy of a letter, No.* 2342, *from the Under-Secretary to the Government of Bengal, to the Registrar of the High Court, dated 9th April,* 1867.

I am directed to acknowledge the receipt of your letter, No. 1014, dated the 1st instant; and in reply to inform you that the toll of 3 pies each, levied at the bars on District Roads and Bridges from Peons of Civil Courts employed in the service of processes, may, as proposed by the Hon'ble Judges of the High Court, be debited to the Peons' Fee Fund.

Circular, No. 15.

DATED CALCUTTA, THE 10TH MAY, 1867.

Mr. Justice Loch.

I am directed to enquire whether the Register, prescribed by Circular Order, No. 62,* dated 31st January, 1845, and the separate book for copies of Mookhtearnamahs enjoined in para. 5 thereof, are still kept up in your Office.

Circular, No. 16.

DATED THE 28TH MAY, 1867.

Forwards to Judges of Small Cause Courts, for their information and guidance, and in modification of Circular, No. 21, *dated* 28*th May,* 1866, *a copy of a letter, No.* 340, *from the Accountant-General, Bengal, to the Registrar of the High Court, dated the* 16*th May,* 1867.

---

* The above Circular relates to the old system of registry of deeds, which has been superseded by Act XX. of 1866. Para. 5 is as follows :—

"The Court, before detailing the forms to be observed in the registry of deeds, desire to remind Registers that they are required by Section 10 of the last cited Regulation not only to preserve carefully all powers of Attorney produced by parties attending on the part of others to procure deeds to be registered, but to cause copies of all such documents to be regularly transcribed in a *separate* book, which must be kept for that purpose. This injunction is reiterated in a Construction of Sudder Dewanny Adawlut, No. 732, dated 9th November, 1832."

(Copy.)

I have the honor to acknowledge the receipt of your letter, No. 1121, dated the 8th April; and in reply to observe that the practice of requiring travelling allowance bills to be countersigned by the Controlling Officers of Departments, prior to payment at local treasuries, has been generally continued under the new system of accounts, and is essential as a check against over-payments.

The orders of the Government of India of the 21st December, 1864 introduced a modified system of payment for contingent charges alone, which do not apply to travelling allowances; for these a special provision is made in a distinct item in every Departmental Budget, and they should not, I would observe, be included in the Grant for contingent expenditure. Since the issue of the letter from this Office, No. 127B, of the 12th May last, the distinction between travelling allowances and contingencies has been more clearly defined, and the issue recently, with the concurrence of the Comptroller-General of Accounts, of separate printed forms of bills for travelling allowances in every Department, has removed any doubts that might formerly have been entertained on this point. I would beg to suggest, therefore, that, with the approval of the Hon'ble Judges of the High Court, the necessary instructions on the subject may be issued to Small Cause Court Judges, who have been advised by this Office of the issue of the printed bill form for travelling allowances, and may obtain them on indent from the Superintendent of Stationery.

Circular, No. 17.

DATED CALCUTTA, THE 12TH JUNE, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Norman.
" " L. S. Jackson.

I am directed to state, for your information, that it has been recently ruled by the High Court that a Magistrate has no authority to release salt seized under circumstances in which the seizure is found on the trial of an offender to have been warranted by Section 18, Act VII. of 1861 of the Bengal Council.

Circular, No. 18.

DATED CALCUTTA, THE 28TH JUNE, 1867.

Mr. Justice Loch.

I am desired by the Court to forward, for your information and guidance, copy of an extract, as per margin, from a letter, No. 2247 of the 12th instant, from the Junior Secretary to the Government of Bengal, authorizing an increase in the salaries of the Peons in the Civil Department, and of the Nazirs of the Civil Courts. This increase will, in the case of the former, commence from the 1st July, when Peons of the first Grade will draw Rs. seven per month, and those of the second Grade Rs. six per month; the additional charge being met from the Fee Fund.

"I am directed to acknowledge the receipt of your letter, No. 213, dated 24th April last; and in reply to state that the Lieutenant-Governor authorizes an increase to the salaries of the Peons, in both the Civil and Revenue Departments, and of the Nazirs of the Civil Courts, to the extent recommended by the Hon'ble Judges."

2. You will be addressed on the subject of the sanctioned increase in the allowances of Nazirs, when the Court has determined in which Districts that increase shall be given.

Circular, No. 19.

DATED CALCUTTA, THE 8TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The High Court directs all Judges to watch the working of the Stamp Laws, and especially of the recent Act XXVI. of 1867, and to pay particular attention to the procedure followed by their Subordinates, with regard to it.

Circular, No. 20.

DATED CALCUTTA, THE 18TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " L. S. Jackson.
" " Macpherson.

The Court, having experienced much inconvenience from the retention of the records of the Lower Courts called up in appeal prior to the promulgation of Act VIII. of

1859, have resolved to return such records to the Zillah Courts to which they belong.

2. All Zillah Judges are requested, immediately on such records reaching their Office, to cause a notice to be hung up in their own Court-houses and in those of the subordinate Courts of the district, containing a list of the number and names of the parties to the cases with which they are connected, and notifying to the parties concerned that, unless they apply within three months from the date of such notice for the return of any documents or exhibits &c., that they may have filed in their cases, applications for the return of such documents or exhibits &c., will not be attended to afterwards, as the records will be destroyed.

3. The Judges will then, after the expiry of the time allowed for the presentation of applications for the return of such documents or exhibits &c., proceed to destroy the records or parts of them in accordance with the existing Rules.

Circular, No. 21.

DATED CALCUTTA, THE 18TH JULY, 1867.

Mr. Justice Loch.

I am desired to inform you that the Government of Bengal* has been pleased to exempt Syud Humayoon Kudi Mahomed Ali Mirza, the third son of the Nawab Nazim of Moorshedabad, from personal attendance in the Civil Courts, under the provisions of Section 22, Act VIII. of 1859.

* *Vide* Government letter No. 4173, dated 6th July 1867.

Circular, No. 22.

DATED CALCUTTA, THE 19TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " L. S. Jackson.
" " Macpherson.

The attention of the Zillah and other subordinate Courts is directed to the necessity of strict adherence to the provisions of the Civil Procedure Code in drawing up their decrees.

2. It has frequently come under the observation of the High Court of Judicature, that the decrees of Mofussil Courts are very far from "specifying clearly the relief granted, or other determination of the suit," as prescribed in the 189th Section of the Code.

3. Very frequently the Court is found to have ordered "that the suit be decreed in favor of the plaintiff, with costs and interest," or "that the plaintiff obtain possession of the property mentioned in the plaint," while the commencement of the decree, instead of containing (as directed) the *particulars of the claim* as stated in the register of the suit, contains merely a vague description of the *nature* of the claim, such as "a claim for possession of lakhiraj land with wasilat," &c.

4. And unfortunately the plaint itself, in many cases, is not as explicit as the law requires it to be, and thus it is occasionally necessary to look at the evidence or at the written statements in order to ascertain precisely what was the subject-matter of the suit.

Clauses 3, 4, and 5, Section 25, Act VIII. of 1859.

5. It is doubtless for this reason that the inferior Courts, when called upon to execute decrees, are in the habit of referring to the records of the original suits; and for this purpose the records are sent backwards and forwards to the great detriment of the papers, and to the serious inconvenience of the Appellate Court.

6. The High Court, therefore, desires to impress upon the lower Civil Courts generally the necessity of drawing up their decrees in such a manner that, in order to the understanding and execution of them, it may not be necessary to refer to any other document or paper whatever.

7. Attentive study of the Sections 190 to 197 of the Code will, in most cases, supply the Judges with the precise direction required in framing their decrees, and, even where the case does not seem to be expressly provided for, the principles there given will apply.

8. Accuracy in this respect would be very materially promoted if the parties to the suit, and more especially their pleaders, would attend to the preparation of the decrees before they are finally recorded, and see that they contain all requisite particulars, and also that they do not go beyond the judgment.

9. Errors and omissions may be detected by the parties interested, which escape the observation of the Officers and even of the Court, and it is obviously better that such imperfections should be corrected before signature of the decree than upon application weeks, months, or years afterwards.

10. For this reason the Court thinks fit to order and direct that, after the promulgation of these Rules, the pleaders on both sides shall be required to affix their signatures to the decrees of the Mofussil Courts, before they are signed by the Judges; and that where any pleader shall not have signed the decree, the cause of his failing or refusing to sign, shall be certified on the decree.

11. The High Court will expect that each subordinate and Zillah Judge will read and explain this order to the pleaders of his Court, and to the Ministerial Officers concerned, and the decrees hereafter emanating from those Courts will be scrutinized, and all instances of inattention to the law will be adequately noticed, while, on the other hand, a careful and intelligent mode of drawing up decrees will be looked upon as a circumstance indicating very plainly the efficiency of the Court so distinguished.

Circular, No. 23.

DATED CALCUTTA, THE 29TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The High Court, observing in many Miscellaneous Appeals that the Subordinate Courts have not awarded costs in respect of Pleaders' fees in accord-

ance with Rule 8th laid down in the General Rules* made by the High Court in pursuance of Section 37, Act XX. of 1865, and published in each issue of the *Calcutta Gazette* of July 1866, or that the fees, if awarded, have not been stated in the final order of the Court, calls the attention of all Subordinate Judges to the Rule in question, and directs that, except in cases where it may be ordered that each party shall pay his own costs, a specific sum be awarded as payable on account of the adversary's Pleader's fee; and that the award of such sum be distinctly recorded at the foot of the Order, with the other costs, if any, incurred by the parties respectively.

* *Vide* C. O. No. 22, dated 13th June, 1866; and C. O. No. 28, dated 20th July, 1866.

Circular, No. 24.

DATED CALCUTTA, THE 7TH AUGUST, 1867.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The Civil Circular Order of the late Sudder Court,* No. 20 of 1847, is hereby cancelled, being inconsistent with the existing Stamp Law and the recent ruling of the Court in the case

---

* CIRCULAR, No. 20.

DATED THE 14TH MAY, 1847.

The Courts of Sudder Dewanny Adawlut for the Lower and North-Western Provinces direct that the following be substituted for the 4th paragraph of a letter, addressed by the Presidency Sudder Dewanny Adawlut to the Judge of Zillah Jungul Mohals, under date the 16th July 1819, and printed in Appendix to Circular Order Sudder Dewanny Adawlut, No. 61, dated 31st August 1832:—

Para. 4.—Should the original bond be brought into question, and its validity need to be determined, the Moonsiff cannot have jurisdiction, unless the sum, which forms the subject of suit, together with the sum of all instalments subsequently claimable under the bond, be within the legal competence of a Moonsiff. If the suit be instituted to recover the *balance* of principal with interest due on a bond for more than 300 Rs., and the amount claimed be within the competence of a Moonsiff, the Moonsiff will have jurisdiction, and the plaint will be engrossed on a stamp of value sufficient to cover the *claim*: if the suit be instituted for the recovery of an instalment, with or without interest, and the sum thereof together with the sum of all other instalments subsequently claimable under the bond be within the competence of a Moonsiff, the Moonsiff will have jurisdiction, and the plaint will be engrossed on a stamp equal to the aggregate amount of the instalment and interest claimed, and of the sum of all instalments subsequently due.

of *Sato Bhama Dosi, plaintiff, versus Jamiradin Khan, defendant*, 21st December, 1865, published in IV. Weekly Reporter, Small Cause Court References, page 12.

Circular, No. 25.

DATED CALCUTTA, THE 17TH AUGUST, 1867.

The Chief Justice.

In modification of the List of Holidays appended to Circular Order, No. 49, dated the 29th December last, it is hereby notified that the holidays, in connexion with the *Janmo Ashtomi*, will not be Thursday and Friday, the 22nd and 23rd August, as previously indicated, but Friday and Saturday, the 23rd and 24th, which are the proper days for this festival.

Circular, No. 26.

DATED CALCUTTA, THE 11TH SEPTEMBER, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley,
" " L. S. Jackson.
" " Macpherson.

The High Court are pleased to direct, in modification of the instructions contained in Circular Order,* No. 32, dated 31st August, 1861 (No. 184,

---

* CIRCULAR, No. 32.

DATED FORT WILLIAM, THE 31ST AUGUST, 1861.

I am directed to inform you that, at the suggestion of the Right Hon'ble the Secretary of State, the Lieutenant-Governor has ordered the submission of an Abstract Statement shewing the number of Civil Suits and Appeals, other than the Small Cause Court class of Cases, disposed of and pending in the Judicial Courts of the Lower Provinces during each month.

As a Statement of the Small Cause Court class of Cases is already submitted monthly, the result of the Government Order will be that information as to all kinds of Regular Suits and Appeals, that are tried in the Judicial Courts, must be furnished to Government monthly.

This being the case, the Court think it desirable to exchange, after the close of the third quarter of the current year, the present Quarterly Statement No. 1 to a Monthly Statement that will exhibit the whole of the information required, and thus obviate the necessity of preparing the separate Statement of the Small Cause Court class of Suits required by Circular No. 9, dated 10th April last.

I am accordingly directed to enclose herewith a copy of the Statement that is to be used for the future, commencing from the month of October, and to request that every portion of it may be carefully filled up. You will observe

printed series), that the Statements of Civil Business, now submitted by the Judges monthly, be in future submitted *quarterly*, on or before the 15th of the month following.

2. It is not intended by these orders to supersede the submission of Monthly Statements by the subordinate Judges to the Judges as at present. The Principal Sudder Ameens,

---

that some information that has not hitherto been called for, will be required henceforward. The Court will expect the Small Cause Court class of Cases, both original and appeals, to be decided within six weeks, and the other class of cases within three months, which is ample time to allow for the majority of cases under the new procedure. Explanations must be submitted in the proper column when any case of the former class has been pending more than six weeks, and when any case of the latter class has been pending more than six months. The Court will not require explanations after three months in the latter class until the old cases now pending shall have been reduced a little, but they will not fail to observe, nor will His Honor the Lieutenant-Governor, what Officer's files shew a large number of cases to be pending beyond three months. The Statement should reach this Office not later in any case than the 15th of the month succeeding that to which it relates, and the Statements of the Districts near Calcutta will be expected not later than the 10th. The Statements, Nos. 2 and 3 of Miscellaneous Cases and the Statement of Sale Explanations should also be submitted monthly with the new Statement, No. 1.

Under these orders the following Statements will not be required after the expiration of the third quarter of 1861; until then, every form should be submitted as at present, including the Statements *for* the 3rd quarter:—

1*st*.—The Civil *Quarterly* Statements of Regular and Miscellaneous Cases.

2*nd*.—Statement of Small Cause Court class of Cases called for by Circular No. 9, dated April 10th, 1861.

3*rd*.—Monthly Statement of files at present submitted by the Zillah Judges of Districts in which Small Cause Courts have been constituted, in accordance with paragraph 6 of the Small Cause Court Resolution, dated the 1st ultimo. With reference to this last Statement, the Judges of the Districts alluded to, will understand that the Regular Suit and Appeal work, as well as the Miscellaneous Cases, if any, of the Small Cause Court Judges of the Principal Sudder Ameen class, should be shewn in the Monthly Statements now ordered.

It is also to be generally understood that this Monthly Statement will, in every respect, take the place of the quarterly one now in use, and that any information, explanations, and remarks, that would have been submitted with the Quarterly Statements if this Circular had not been issued, should henceforward be submitted with the Monthly Statements.

As the Lieutenant-Governor requires the information indicated in the first paragraph of this Circular for the month of July 1861 and thereafter, you are requested to fill up and despatch a Statement similar to that annexed as soon after the receipt of this as possible, and similar Statements for the months of August and September should accompany the Statements of the Small Cause Court class of Cases for those months.

The Court trust that you and your subordinates will see the necessity of making every exertion to dispose of all the old cases that may be now pending, between this and October, when the new Statements will come into use.

Sudder Ameens, and Moonsiffs will submit, as hitherto, their Statements every month to the Zillah Judge, and the Court expect that the Judges will carefully examine those Statements and satisfy themselves that the business of the subordinate Courts is transacted with due despatch, as well as with method and with personal attention to the cases as they come before them in execution, as well as before decree.

Circular, No. 28.

DATED CALCUTTA, THE 13TH SEPTEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

A new Form of certificate for the refund of Stamp Duty is forwarded herewith for adoption by all Civil Courts in Bengal in passing for payment at the Civil Treasury the Stamp Duty refunded in cases adjusted by compromise or remanded for re-trial. The Form will be supplied by the Superintendent of Stationery on Indents.

A. G. B. No. 96.

DISTRICT OF

CERTIFICATE FOR THE REFUND OF THE STAMP FEES LEVIED ON THE PETITION SPECIFIED BELOW.

درخواست مفصل الذیل کے فیس یعنے قیمت کاغذ اسٹامپ کے واپس کرنیکی سارٹیفکٹ

নীচের লিখিত দরখাস্তে যে ইষ্টাম্পের মাসুল দেওয়া গিয়াছিল তাহা ফিরিয়া দেওনের সার্টিফিকেট

Voucher No. *of*

List of Payment

for 186 .

Head of Service Chargeable.

3—ALLOWANCES, REFUNDS, AND DRAWBACKS.—
REVENUE REFUNDS—STAMP DUTY ... { RAZEENAMAH . . / RE-TRIAL ...

1	2	3	4	5	6	7
Number of Suit or Petition, & Names of the Parties. نمبر مقدمہ یا درخواست و نام مخاصمین মকদ্দমার কিম্বা দরখাস্তের নম্বর ও বাদী প্রতিবাদীর নাম।	Value of Stamp and description of Paper. قیمت اسٹامپ و شرح و کیفیت کاغذ ইষ্টাম্পের মূল্য ও কাগজের মূল্য।	Amount of claim in Suit. تعداد دعوي مقدمہ মকদ্দমার দাওয়ার সংখ্যা।	Names of the parties receiving refunds. نام اُن لوگوں کا جنکو پھرتا دیا جائیگا যাহার টাকা ফিরিয়া পাইবেক তাহাদের নাম।	Amount to be refunded. تعداد زر پھرتا যতটাকা ফিরিয়া দেওয়া যাইবেক।	Stamp-vendor's endorsement. دستخط ظہري اسٹامپ فروش ইষ্টাম্প বিক্রেতার দস্তখত।	Under what Regulation. Section, and Clause the amount is refunded. ذکر اُس آئین اور دفعہ اور ضمن کا جسکے رو سے پھرتا دیا جائیگا যে আইনের যে ধারায়। যে প্রকরণ ক্রমে ঐ টাকা ফিরিয়া দেওয়া যায়।

The ——— 186 .
تاریخ ۱۸۷۶ سنہ ع
তারিখ ইং ১৮৭৬ সাল

To

THE COLLECTOR OF

Pay Rupees Net

The ——— 186 .

Examined ——— *Accountant.*

Claimant's Certified that ——— or his order is entitled under the order of the ——— Court of ——— dated the ——— 186 to the above refund of Rs. ———

ইহার দ্বারা জ্ঞানান যাইতেছে যে ——— আদালতের ১৮৭৬ সালের ——— তারিখের হুকুমানুসারে ——— অথবা তাহার অনুমতি ক্রমে তাহার প্রতিনিধি ——— ——— টাকা ফিরিয়া পাইতে পারে।

Signature.

عدالت کے حکم سے

از روے اِس تحریر کے واضح ہو کہ

سنہ ۱۸۶ ع کے مطابق

مصدورہ تاریخ

روپئے

اُسکا فرستادۂ مجاز

پھرتا پائیگا مستحق ھی

Officer in charge of Treasury.

Judge or other Officer.

Circular, No. 29.

DATED CALCUTTA, THE 13TH SEPTEMBER, 1867.

Mr. Justice Loch.

Several recent instances having occurred of the neglect of the provisions of Civil Circular, No. 28, dated 20th September, 1864, the Court again call attention to the subject. A *copy* of the judgment in the language in which it was delivered is required, and not a translation of that judgment. The Judges are requested to draw the particular attention of the subordinate Judges to the subject.

Circular, No. 30.

DATED CALCUTTA, THE 16TH SEPTEMBER, 1867.

Mr. Justice Loch.

I am directed to forward herewith, for adoption in the Civil Courts of your District, a revised Form of Register of Stamp Duties levied under Schedule B, Section 6, Act XXVI. of 1867.

Return of Stamp Duty levied under Schedule B., Section 6, Act XXVI., 1867, in the Court (or Office) of the ——— of the District of ——— in the Division of ——— in the Province of ——— in the Presidency of ——— from the 1st May to the 30th September, 1867.

Column 1.	Column 2, Article I.	Column 3, Article II.	Column 4, Article III.		
Date of day and month.	Bond or other obligation when given by direction of any Court or Revenue Authority,—Duty, 8 annas. *N. B.*—This applies to Bonds such as are detailed in Form D, Act XXV, 1861, and Act X, 1859, respectively; for the Duty on Bonds, and obligations generally, see Schedule A, Act X, 1862.	Certificate granted under Acts XXVII., 1860, and XL., 1858, Bengal Act; and Regulation VIII., 1827, Bombay Code,—Duty, as per value.	Copy of Decree or Order having the force of a Decree.		
			When passed by the High Court—Duty, Rupees 4.	When passed by any Civil Court other than the High Court, or by any Revenue Court.	
				If Rupees 50 or less than Rupees 50 in value,—Duty, 8 annas.	If exceeding Rupees 50 in value,—Duty, Rupee 1.

Continued.

Column 5, Article IV.			Column 6, Article V.	Column 7, Article VI
Copy or Translation of a Judgment or Order not being, or having the force of, a Decree.			Copy of any Revenue or Judicial Proceeding, or Order not provided for, or of any Account, Statement, Report, or the like, when taken out of any Civil or Criminal Court, or Revenue Court or Office, or any Office of any Commissioner of Circuit, or any chief Officer charged with the Executive Administration of a Division,—Duty, 8 annas per sheet.	Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A, when left *by any party to a suit*, on Proceedings in place of the original withdrawn.—Duty, either the same Duty as on the original Deed, &c., or else 8 annas per sheet, provided Duty on copy does not exceed that on original.
When passed by the High Court,—Duty, Rupee 1.	When passed by any Court other than the High Court, or by any Revenue Court, or by the Board of Revenue, or by any Chief Commissioner, or other chief Revenue or Executive Authority, or by any Commissioner of Circuit, or any chief Officer charged with the Executive Administration of a Division.			
	If Rupees 50 or less than Rupees 50 in value,—Duty, 4 annas.	If exceeding Rupees 50 in value,—Duty, 8 annas.		

Column 8, Article VII.			Column 9, Articles VIII. and IX.		
Mooktarnama, Wakalutnama, and other Power, filed or presented for the conduct of any *one* case in any Court, or before any Revenue or Executive Authority.			Petition of Appeal.		
When presented to the High Court, the Board of Revenue, the Chief Commissioner, or other chief Revenue or Executive Authority,—Duty, Rupees 2 in each case.	When presented to a Commissioner of Revenue or Circuit, or to any chief Officer charged with the Executive Administration of a Division, or to a Commissioner of Customs,—Duty, Rupee 1 in each case.	When presented to any Civil or Criminal Court other than the High Court, or to any Revenue Court, or to any Collector or Magistrate or other Revenue or Executive Authority not already provided for,—Duty, 8 annas in each case.	When not from an Order rejecting a Plaint, or from a Decree or Order having the force of a Decree, and,		When presented to the Board of Revenue, or to the Chief Commissioner, or other chief Revenue or, Executive Authority, — Duty Rupees 2.
			When presented to the High Court, — Duty, Rupees 2.	When presented to any Civil Court other than the High Court, or to any Revenue Court other than the Board of Revenue,—Duty, 8 annas.	

Continued.

Column 10, Article X.						
Any other Petition and any Application.						
When presented to the High Court,—Duty, Rupees 2.	When presented to the Board of Revenue, or to the Chief Commissioner, or other Chief Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief Officer charged with Executive Administration of a Division, — Duty, Rupee 1.	When presented to, or when written down on Examination as provided by Section 7, by any Criminal Court, and containing a complaint of certain offences specified, — Duty, Rupee 1.	When presented to any Civil Court, other than a principal Civil Court of Original Jurisdiction, or to any Cantonment Joint Magistrate sitting under Act III., 1859, or to any Court of Small Causes under Act XI., 1845, or to any Collector or Officer of Revenue, and when the Petition relates to any matter less than Rupees 50 in value,—Duty, 1 anna.	When presented to the Collector of Customs at any Presidency Town, to any Municipal Commissoner, or to any Magistrate or Justice of the Peace, under any Act for the time being in force for the conservancy and improvement of any Presidency Town,—Duty, 1 anna.	When presented to a Civil, Criminal, or Revenue Court, or any Board of Revenue, or any Commissioner of Revenue or Circuit, or any chief Officer charged with the Executive Administration of a Division, and when the Petition is for copy or translation of any Judgment, Decree, or Order, or other document on Record,—Duty, 1 anna.	When not otherwise provided for, nor exempted, and when presented to any Civil, Criminal, or Revenue Court, or to any Collector or other Revenue Authority, or any Magistrate in his Executive capacity,—Duty, 8 annas.

Column 11, Article XI.				Column 12.
Petition of Plaint or Appeal in Civil or Revenue Courts outside the local limits of the Ordinary Original Civil Jurisdiction of Courts established by Royal Charter.				Note (*c*), Article XI.
Amount or value of the property claimed in each Suit or Appeal.	Amount of Stamp Duty levied in suits and appeals in Civil or Revenue Courts not otherwise provided for,—Duty, as per scale.	Amount of Duty levied in a Military Court of Request or in the Court of a Cantonment Joint Magistrate under Act III., 1859, or in a Court of Small Causes established under Section 6, Act XXII., 1864,—Duty, as per scale.	Amount of Duty levied in suits under Section 15, Act XIV., 1859, or in applications under Section 1, Act XVI., 1838, and Act V., 1864, of the Bombay Code,—Duty, ¼ the value of that prescribed by the scale.	Excess of Duty paid in Suits for mesne profits.

N B—A separate Memorandum should show in detail the amount of Stamp Duty levied under Note (*a*) and Note (*b*), Articles I, II, and III

Continued.

Column 13.	Column 14.	Column 15.	Column 16.	*N. B.*	Remarks.
Note (*e*), Article XI.	Note (*d*), Article XI.	Section 26, Act X., 1862.	Total of Duty collected.	Razeenamas and the like referred to in Article XIII., Schedule B, Act X., 1862, will now bear the Stamp Duty appropriate to such under the provisions of Schedule A.	In this column Courts and Officers will be so good as to bring to notice anything requiring notice in the working of the new Schedule.
Additional Duty paid by Respondents taking objections under Section 348, C C. P	Amount of Duty refunded on remands.	Amount of Duty refunded on compromises. &c.			

Circular, No. 31.

DATED CALCUTTA, THE 25TH SEPTEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

In modification of para. 3 of Circular Order, No. 10 A., dated the 26th April, 1864, the Court are pleased, with the sanction of the Lieutenant-Governor of Bengal,* to issue the following instructions, adopted with slight modification from the Rules issued by the Board of Revenue, as to the mode of levying *Tullubana* for the service and execution of Civil process by peons appointed under Act V. (B. C.) of 1863.

The following fees are to be levied for the service of each process, beside charges for boat-hire, ferries, postage, &c., which are to be paid separately as provided in Section 4 below:—

Levy of Fees.

1. If the distance of the place of service or execution from the Court whence the process is issued, calculated, not as the crow flies, but by the road the peon must travel, does not exceed twelve miles—eight annas. If the said distance exceeds twelve miles—one rupee.

2. As many processes as possible are to be entrusted to one peon. For every additional process after the first, *issued at the instance of the same party and in the same case, and carried by* ONE *peon over* ONE *road*, the fee is to be one-fourth of the rates above specified. In such cases the whole fees levied for all the processes so carried for one party are to be charged for the purpose of fixing costs in equal shares upon all the processes so carried.

3. If a peon is detained at the place of service for more than one day at the request of the person at whose instance the process was issued or of his agent, such person or agent must pay, then and there, demurrage at the rate of five annas a day. Unless this demurrage be paid, the peon must not wait.

* *Vide* Government letter No. 4767T, dated 21st August, 1867.

Additional Charges.

4. All sums, except those referred to in Circular Order of 11th May 1866, No. 18, levied under the preceding Rules, are to be credited to the Government to form the fund prescribed in Section 9 of the Act.

5. In addition to these fees, the actual charge which must be incurred, if it is necessary to employ boats or cross ferries, is to be levied from, and paid by, the person at whose instance the process is issued, before issue of the process to the peon who carries the process.

Circular, No. 32.

DATED CALCUTTA, THE 28TH SEPTEMBER, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The Court direct that a quarterly Return in the annexed form (contemparaneous with the quarterly Civil Returns) be made by all District Judges to the High Court of all grants of Probate and Letters of Administration made in accordance with the provisions of Part XXXI. Act X. of 1865. The Return should contain the name and description of the deceased person and of the persons who have been granted Letters of Administration and, in Probate cases, of all the executors named in the will.

Returns of grants of Probate and Letters of Administration made by the District Judge of ———— under the provisions of Part XXXI. Act X. of 1859, *for the quarter ending* 186 .

Name and profession of deceased person.	Name and profession of persons to whom Probate or Letters of Administration were granted.	Names of all Executors in the Will in Probate cases.	Date of Grant.

Circular, No. 33.

DATED CALCUTTA, THE 29TH NOVEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

In continuation of this Court's Circular, No. 18 of the 28th June last, I am directed to request that you will be good enough to submit, at your earliest convenience, a roll showing the name and age of the Nazir of your Court, the date of his appointment to that office, and the length of his service as Nazir, together with your opinion as to his qualifications for holding the office of Nazir.

Circular, No. 34.

DATED CALCUTTA, THE 3RD DECEMBER, 1867.

Circulates, for the information and guidance of the Civil Authorities in the Lower Provinces, the following Rules relating to the custody and preservation of Wills.

1. All original Wills presented to a District Judge, in accordance with the provisions of Section 244, and Probate or Letters of Administration which have been granted under Sections 254 and 255, Act X. of 1865, shall be committed to the care of the Head Clerk or Chief Ministerial Officer of the Judge's Court, who shall be responsible for their safe custody.

2. The said Officer shall, on the receipt of each original Will, cause a copy of the same to be carefully entered in a Register to be kept for that purpose, and shall also cause to be prepared an alphabetical index, in which the name of the testator, &c., and the number and page of the Register, in which a copy of the Will is entered, shall be recorded in the annexed form :—

Name of Testator.	Residence, &c.	No. and year of Register.	Page.

3 The original Wills shall be deposited in a fire-proof safe, which shall be kept in the office-room of the Head Clerk, or other Officer aforesaid, to whom the safe custody of the Wills may have been entrusted, or in some other safe place in which the records of the Judge's Court are ordinarily kept.

Relating to the Inspection of Wills.

4 Every inspection of original Wills or the Registers thereof, as well as applications for copies of Wills, shall be made within the hours fixed by the Judge, and published by a Notification posted in a conspicuous place in the Court, and shall be subject to the following conditions.

5. The inspection of an original Will shall be allowed only on the written order of the Judge previously obtained, and shall take place in the presence of the Head Clerk, or other Officer who may have charge of the same, and that Officer shall be responsible for the Will not being taken out of his sight during such inspection, and also that no erasures or alterations are made in it.

6. Application for a copy of an original Will shall be submitted to the Judge, and such copy shall only be granted subject to the conditions which attach to the inspection of original Wills.

7. The following fees shall be charged for the inspection of Wills, &c. :—

(i.)—For the inspection of an original Will, 1 Rupee.

(ii.)—For the inspection of a copy of a Will in the Register, 8 annas.

(iii.)—For copies, the same fee as for inspection, in addition to the copying charges, which shall be at the usual rate obtaining in the Civil Courts.

8. A separate Register shall be kept for the entry of all applications for copies or inspection of Wills and Registers, in which shall be recorded the names of the applicants and the amount of fees paid by them in each case.

9. The fees shall be at the disposal of Government, who shall assign such remuneration as it shall think proper in each case to the Officer entrusted with the custody of the Wills.

Circular, No. 35.

DATED CALCUTTA, THE 14TH DECEMBER, 1867.

To Judges of Courts of Small Causes.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.

The following Rule is to be substituted for that prescribed by Circular Order, No. 32, dated 19th December, 1865:—

"An application for a new trial under Section 21, Act XI. of 1865, in any case in which the amount or value of the subject-matter is less than fifty rupees, shall bear a stamp of *one anna*. In other cases it shall bear a stamp of eight annas."—(See Clause 10, Schedule B. Act XXVI. of 1867).

Circular, No. 1.

DATED CALCUTTA, THE 3RD JANUARY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

It is hereby notified for general information, that the Civil Courts, subordinate to the High Court, will be closed in the year 1868 on the dates indicated in the annexed list.

The Civil Courts are not to be closed, except on the Holidays authorized as above.

List of Holidays for the

Names of Holidays.	English Date.	Bengáli Date.
New Year's Day and the two days following, ...	1st to 3rd January.	18th to 20th Pous, 1274.
Eed-ul-fitr, ...	27th & 28th January.	14th & 15th Magh.
Bussunt Punchoomee, ...	29th & 30th January.	16th & 17th Magh.
Shibu-Rattri, ...	21st & 22nd Feb.	10th & 11th Falgoon.
Dole Jattra, ...	8th & 9th March.	26th & 27th Falgoon.
Baroonee Gunga-snan, ...	21st March.	9th Chaitro.
Sree Ram Nubomee, ...	1st April.	20th Chaitro.
Eed-uz-zoha, ...	5th & 6th April.	24th & 25th Chaitro.
Good Friday and the day following, ...	10th & 11th April.	29th & 30th Chaitro.
Mohabishan Sankranti, ...	11th April.	30th Chaitro.
Moharram, ...	29th April to 3rd May.	18th to 22nd Bysak, 1275.
Queen's Birthday, ...	24th May.	12th Joistee.
Dushohara Gunga-snan, ...	31st May.	19th Joistee.
Akheri Chaharshumba, ...	17th June.	5th Joistee.
Ruth Jattra, ...	22nd June.	10th Assar.
Oolta Ruth, ...	29th June.	17th Assar.
Fattéhé doaz duhum, ...	4th July.	22nd Assar.
Junmostomee, ...	11th & 12th August.	28th & 29th Srabon.
Eclipse of the Sun, ...	18th August.	3rd Bhadro.
Dusserah Vacation, including Mohaloya, Lukhipooja, Dewali, and Bratriditia, ...	16th Sept. to 17th Oct.	1st Assin to 2nd Kartick.
Juggutdhatree Pooja, ...	24th & 25th Oct.	9th & 10th Kartick.
Kartick Pooja, ...	14th & 15th Nov.	30th Kartick & 1st Aughran.
Shub-e-Barrat, ...	30th Nov.	16th Aughran.
Christmas-day and the two days following, ...	25th to 27th Dec.	12th to 14th Pous.

Subordinate Civil Courts for the Year 1868.

Days of the Week.	Number of Days.	Remarks.
Wednesday to Friday.	3 days.	But if the Moon be not visible on the 26th then on the 28th and 29th.
Monday & Tuesday.	2 days.	
Wednesday & Thursday.	2 days.	
Friday & Saturday.	2 days.	
Sunday & Monday.	2 days.	
Saturday.	1 day.	
Wednesday.	1 day.	
Sunday & Monday.	2 days.	
Friday & Saturday.	2 days.	
Saturday.	1 day.	
Wednesday to Sunday.	5 days.	
Sunday.	1 day.	
Sunday.	1 day.	
Wednesday.	1 day.	
Monday.	1 day.	
Monday.	1 day.	
Saturday.	1 day.	
Tuesday & Wednesday.	2 days.	
Tuesday.	1 day.	
Wednesday to Saturday.	31 days.	
Saturday & Sunday.	2 days.	
Saturday & Sunday.	2 days.	
Monday.	1 day.	
Friday to Sunday.	3 days.	

Circular, No. 2.

DATED CALCUTTA, THE 12TH FEBRUARY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " Macpherson.

It is proposed that the fees for service of processes in cases appealed to the High Court, be commuted for a fixed rate payable in Calcutta. It has been suggested by the Government of Bengal that charges for boat hire and road or ferry tolls be likewise so commuted. In order to enable the Court to fix a proper rate for these latter items, I am directed to request that you will be good enough to furnish me with a statement of the charges usually made on these heads in your district with full details of distances, seasons, &c.

Circular, No. 3.

DATED CALCUTTA, THE 26TH MARCH, 1868.

To Judges of Small Cause Courts.

Mr. Justice Loch.

I am directed by the Court to forward copy of a letter from the Accountant-General, Bengal, No. $\frac{T}{4416}$, dated 14th instant, and to request, with reference thereto, that all charges for binding books may in future be met from the fixed allowance for Country Stationery instead of being allowed to form an item in your Contingent Bill.

(Copy.)

I beg to draw your attention to the charge of Rupees 4-12 on account of binding books which has been admitted by you on the accompanying detailed Contingent Bill of the Small Cause Court of Moorshedabad for the month of September last. All charges for binding books are required, under Orders of the Government of India, to be met from the fixed allowance for Country Stationery, and I request that, with the permission of the High Court, the amount, under reference and all similar expenditure may be retrenched from the Contingent Bills of Small Cause Court Judges, and be directed to be met from the Stationery allowance, or that the orders of Government may be obtained, with the Court's permission, for the admission of the extra expenditure, if it is considered indispensable.

Circular, No. 4.

DATED CALCUTTA, THE 2ND APRIL, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.

Several of the Zillah Judges appear to have entirely closed their Courts

Mr. Justice L. S. Jackson.
" " Macpherson.

on the Criminal, as well as on the Civil side, for the period of the Dusserah Vacation, and to have abstained during the whole of that period from attending to business, receiving or opening communications from the Superior Court, despatching returns which were due, or doing any act whatever of an official kind.

Such a practice is justified by nothing in the law or in the orders of this Court; it causes great inconvenience. The Zillah Judges are, therefore, reminded that, under the Circular Order (Nizamut Adawlut), No. 8, dated 23rd March, 1838, issued under the orders of Government, which has never been rescinded, the Court of Session "must never be closed for the despatch of Criminal business, except on those days only when a total cessation from all business is necessary and usual;" and moreover that, even on the Civil side of their Courts, it does not follow that, because there is no sitting of the Court, therefore every official duty is to be suspended.

Circular, No. 5.

DATED CALCUTTA, THE 2ND APRIL, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

With reference to Circular, No. 1, dated 3rd January, 1868, you are requested to report what holidays in the list forwarded therewith are not usually or generally observed in your district, and what other days you would propose to substitute therefor, having regard to local usages.

Circular, No. 6.

DATED CALCUTTA, THE 22ND MAY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The High Court have observed that Subordinate Civil Courts, with few exceptions, omit to enter costs in their orders in *Miscellaneous Cases*, stating sometimes as a reason for the omission that the pleader's fees

have not been awarded for want of any specification of the value of the claim; and that, in the few exceptional cases in which the pleader's fees are entered in the order, the computation appears to have been made by a mohurir or other ministerial officer with reference to the value of the case, while the officer presiding in the Court is required specifically to fix the fees at the hearing.

The Court therefore request the attention of all Subordinate Courts to the injunction contained in Circular Order, No. 22 of the 13th of June, 1866, that "Civil Officers will invariably act up to the letter and spirit of the Rule" therewith circulated, for regulating and fixing the fees payable in Subordinate Courts, and more particularly to Section 8 of those Rules, which enjoins that "the amount of the fee of an adversary's pleader, when allowed in any Miscellaneous Proceeding, or for any other matter than that of appearing, acting, or pleading in a suit prior to decree, shall be fixed by the Court," &c.

Circular, No. 7.

DATED CALCUTTA, THE 25TH JUNE, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The *Circular Order, No. 55 of 17th November, 1854, being applicable to a procedure no longer in existence, has become obsolete and is hereby rescinded.

---

* The Court direct that, whenever in any judicial proceeding, an official servant of Government is summoned as a witness, *a letter or roobukaree shall be sent simultaneously with the issue of the summons, for the information of the official superior of the party summoned.*

2. Under Section 12, Act XIX. 1853, the expenses of each witness must be paid into Court before a summons is issued, and must be tendered to the witness at the time of serving the summons.

3. The above Rule applies to the Amlah in every department, as well as to the inferior officers, chuppraseis, Police burkundauzes, and village chowkeedars.

Circular, No. 8.

DATED CALCUTTA, THE 3RD JULY, 1868.

The Chief Justice.
Mr Justice Loch.
" " Bayley
" " L S Jackson.
" " Macpherson.

Several instances having been brought to the Court's notice in which a Principal Sudder Ameen (Subordinate Judge) trying a case in appeal from a Moonsiff's decision, directed the Moonsiff, by an order of remand, to make a local investigation in person; the Court think it necessary to point out that it is not competent to a Subordinate Judge to issue such an order to the Judge of an inferior Court of Original Jurisdiction, or to impose upon such inferior Judge the duties of a Commissioner under the Code of Civil Procedure.

Such interruption of the duties of an inferior Court is an interference with the arrangements of Government and with the convenience of the Public, which is not warranted by law or justifiable in point of propriety.

Circular, No. 9.

DATED CALCUTTA, THE 13TH JULY, 1868.

Mr Justice Loch
" " Bayley
" " L S Jackson.

I am directed to forward herewith, for your information and guidance and for communication to the Moonsiffs subject to your control, the subjoined copy of a Circular having reference to the escort of remittances to Collectorate Treasuries, which has been addressed by the Inspector-General of Police to Deputy Inspectors General and District Superintendents, and has been approved by the Lieutenant-Governor.

I am to remind you that the orders of Government, of the 1st March, 1864, No. 1338, which are modified by the present Circular, will be found attached to the Court's Circular Memorandum, No. 9, dated the 10th March, 1864.

Circular from the Inspector General of Police, Lower Provinces, to all Deputy Inspectors General and District Superintendents of Police.

In modification of the orders contained in Government letter, No. 1338 of 1st March, 1864, published with this Office Memorandum, No. 834, dated 21st idem, the Lieutenant-Governor is pleased to direct as follows: Where Moonsiffs' Courts exist, a day in each month will be fixed by the Judge on which the money will be paid over to the Police for transmission to the Treasury.

2. - The Moonsiff will give notice at the Police Station on the day before the guard is required, and the Police Officer in charge will himself, on the day appointed, proceed to the Moonsiff's Cutcherry with a guard, as directed in Circular, No. 28 of 1867.

3. He will receive charge of the money, and at once make it over to the guard with a memorandum of the amount. The Officer in charge will forthwith proceed with it to the Treasury or Sub-divisional Treasury.

4. Should any necessity arise for a second remittance during the month, the same course will be pursued, on due notice being given at the Police Station.

Circular, No. 10.

DATED CALCUTTA, THE 7TH SEPTEMBER, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

There being no rules under which prisoners confined in Civil or Criminal Jails can be produced as witnesses in civil or criminal cases, and it being very desirable, in the interests of justice, that reasonable facilities should exist for obtaining the evidence of such persons when material to cases under trial and calculated to promote the

administration of justice, the following rules on the subject are laid down by the Court with the concurrence, and at the suggestion of His Honor the Lieutenant-Governor of Bengal.

1. The District Judge, either on the motion of any person interested, or on the application of any inferior Court, Civil or Criminal, may direct the attendance of any prisoner confined within the local limits of his District, to give evidence in any case civil or criminal.

2. The grounds of such motion or application shall be, that the prisoner, sought to be produced as a witness is a *necessary* witness, without whose evidence the party seeking to examine him cannot safely go to trial. The Judge, before complying with the application, may require to be satisfied in such manner as he may deem proper as to the existence of such grounds.

3. It *shall not* be competent to the District Judge, but it *shall* be competent to the High Court, on the application of the District Judge, to direct the attendance for such purpose as aforesaid, of any prisoner confined beyond the local limits of the jurisdiction of the Judge so applying.

4. Prisoners in Jail at a greater distance than 100 miles from the place where their evidence is required in civil cases, whether within or without the local limits of the District, may be examined under a Commission issued in accordance with the provisions of Section 175, Act VIII. of 1859. Commissions under this rule may be directed to the "Officer in charge of the Jail" in which the prisoner to be examined is confined.

5. The cost of bringing up a prisoner as a witness, or of examining a prisoner under a Commission, shall be paid by such party as the District Judge or the High Court respectively may direct. Unless, for reasons to be recorded, the Judge shall otherwise direct, a deposit to meet such cost shall be made before issue of the Judge's order.

6. It shall be competent to the District Judge to direct summonses to defendants in civil cases, who are prisoners in

any Jail or Lock-up within his District to be served on such defendants within the precincts of such Jail or Lock-up in such manner as the Lieutenant-Governor may, by his order, from time to time, direct.

(See Circular, No. 45, dated 12th October, 1866—ante, page 179.)

INDEX.

A.

Page

ABATEMENT of suit on death, marriage, bankruptcy of parties, ... 54 *note*

ACCOUNT-BOOKS how to be produced and used in evidence, 190, 193, 194

Mass of such books and papers not to be sent up in appeal, ... 194

ACCOUNTS: Commissioners for investigation of, 57 *note*

to be rendered annually by Public Curator and persons holding certificates of administration, 116, 117; but see, 146, 147

ACCUSED person may be defended by person not a pleader, or mookhtar, ... 144

ADJOURNMENTS: Rules as to, ... 61, 62, 64

List of adjourned cases to be suspended in Court-house, ... 62

Costs of, by whom to be paid, ... 64

ADMINISTRATION: Parties holding certificates of, to furnish accounts annually, 116, 117, but see 146, 147

Quarterly returns to be made of grants of letters of; and form for, ... 216

ADMINISTRATORS under Act XL of 1858 bound to keep regular accounts, ... 147

ADMISSIBILITY of evidence; Judge how to deal with question of, ... 63

AGENTS; see AUTHORIZED AGENTS.

ALIPORE Jail Press; No higher rates for *printing* to be admitted than those of, ... 138

ALLOTMENT in Budget Estimates of Small Cause Courts. Meaning of, ... 148

AMEENS appointed under Act XII. of 1856.

to be of two classes, ... 46 *note.*

Qualifications for the appointment, ... 46 do.

Duties of; and directions for distribution and performance of, ... 46-47

Cases to be referred to for report, when, and when improperly so referred, ... 177

Page

AMEENS.—*Continued.*
Clear instructions to be given to, for making investigations, ... 47
Diary and Register to be kept by and inspected by Judge, ... 47,48
To submit final report when duty assigned has been performed, ... 48
Travelling allowance of, ... 46,47
Daily rate chargeable for services of,... ... 48
Travelling allowance of, to be charged in addition, but not credited to Ameens' Fund,... ... 49
Salaries of, how provided for, ... 48
Cases should not be remanded for Ameens' report, 174
Statement of Ameens' fees not correctly prepared, and how to be prepared in future, ... 179
Return as to Ameens' Fund, called for, ... 22,23
Travelling allowance of Ameens not to be credited to, but to be paid to Ameens direct, ... 49
Reports of, not to be sent on H. M. S., but postage to be paid by parties, ... 70
Deputation of peons to assist, ... 124
ANNUAL REPORT to contain a statement of measures taken to improve subordinate Courts, ... 72
To contain statement of interest of Judicial Officers in land, ... 106
Judges to report in, on the working of Rules for apprentices, ... 109
Also, *after careful personal enquiry*, on the state of their Record-rooms, ... 117
APPEALS: Notification as to hearing of Regular and Special appeals of 1862, ... 2
Directions to ensure all material papers being sent up in appeals to the High Court, ... 186,188
Original decision or authenticated copy to be sent with records to High Court, ... 28
Records of execution cases to be submitted complete, when sent up in appeal, ... 186
Payment of *tulubana* by appellant for service of notice under Section 345, Act VIII. 1859, ... 40
Calculation of time allowed for appeal, ... 59 *note.*
Records to be sent to High Court in seven days, or explanation to be given, ... 76,77
Pleaders' fees in appeals, ... 151
Maps how to be sent up with records in, ... 185
Memorandum of appeal should be embodied in the decree, ... 185
APPEARANCE of defendant: Day for, when and how to be fixed,... ... ... 52 *note.*

	Page
APPELLANT: Payment of tulubana by appellant-to-High Court, ...	40
APPELLATE Court to communicate judgment in Act X. cases to lower Court through Collector and Magistrate, ...	108
To send copy or translation of judgment to lower Court, when proceedings irregular,... ...	145
To see that evidence has been properly recorded by subordinate Court; and, if not properly recorded, to report to High Court, ...	61,128
Duties of, in directing cases to be remanded, ...	173,174
Process of, how to be served, ...	114,115
Copy of Registration-memoranda to be sent with records to Appellate Court, ...	155
APPLICATIONS from subordinates for promotion, &c. not to be forwarded by public officers, ...	103
APPOINTMENTS: Time allowed for joining,... ...	91,196
Salary cannot be drawn by person not performing duties of, ...	108
of Ministerial Officers, acting or permanent, how filled up, ...	110
APPRENTICES in Mofussil Offices: Rules as to, ...	109
ATTENDANCE: Persons exempted from personal, in Court; see EXEMPTED.	
Personal attendance of parties when to be enforced,	53 *note.*
AUTHORIZED AGENTS to file their powers with plaints,...	52 *note.*

B.

BADGES and belts to be supplied to Civil Court peons, ...	94
Account of expenditure for, to be furnished to High Court, ...	94
BOOK-BINDING: Charges for, not to be included in Contingent bill, ...	222
BOOKS: List of law-books in the Courts of Civil Judges called for, ...	84
BUDGET ESTIMATES: Directions for the preparation of,	3,11,41-43
Sanction required before an increase of establishment or salary is inserted in the estimates, ...	30
To whom and through what channels to be submitted, ...	93
Chowkodaree tax of Small Cause Court-houses to be provided for in, ...	124
Directions as to, of Small Cause Courts for 1867 and meaning of "allotment,"	118
BURDEN OF PROOF: see ONUS PROBANDI.	

Page

C.

CANDIDATES: Rules as to, for ministerial employment in the Mofussil, ... 109
Preference to be given to candidates who know English, ... 112
For *Pleadership Examination*, see PLEADERSHIP EXAMINATION.
CAZEES: Statement called for as to lands and emoluments enjoyed by, ... 73
Pergunnah Cazees to send in their books and seals, the office having been abolished, ... 79
CERTIFICATES: Copies of decrees and certificates under Section 186, Act VIII. of 1859, not to be sent on the Public Service, ... 114
for refund of stamp duty: new form of, ... 206,208
of Administration: Parties holding, to furnish accounts annually,... 116,117,146,147
of Pleaders: authorize them to practise in what Courts, ... 172
CHOWKEEDAREE TAX, to be provided for in Budget Estimates, ... 124
CIVIL AMEENS: see AMEENS.
CIVIL COURT: see COURT.
CIVIL JAIL: see JAIL.
CIVIL PAYMASTER: Applications for leave, pension, or gratuity to be submitted through, ... 74
CIVIL PROCEDURE: Rules as to, ... 50,65
CIVIL STATEMENTS: See STATEMENTS.
CLERK of Small Cause Court: Duties of; may sign "by order," 89,90
CODE: Indian Civil Code, Chapter I., forwarded for remarks and observations, ... 87
COLLECTOR: Judgment of Appellate Court under Act X. of 1859 to be communicated to lower Court through, ... 108
COMMISSION when to issue for the examination of prisoners in Jail, ... 227
COMMISSIONERS to make local investigations and to investigate accounts: difference between, ... *57 note.*
of Circuit to see that District Officers pay attention to rules for apprentices, ... 112-113
COMMITMENT of persons guilty of false evidence or forgery before Civil Courts, ... 31,167-168
CONTINGENT Bills to be submitted in duplicate by Small Cause Court Judges,... 29
Expenditure how to be regulated and controlled,... 104
Charges how to be estimated in preparing budget, 42

Page

CONTINGENT.—*Continued*,
To be passed by what authorities, ... 103,104
Travelling allowance not to be included in, ... 198
Nor charges for binding books, ... 222
CONTROLLING Officers for passing contingent charges: who are, ... 103-104
COPIES: Memo. of date of certified copies being furnished to be noted on them, ... 62,59 *note*, 92
Rules as to granting, calculation of time allowed, &c., ... 92
of documents filed under Section 39, Act VIII. of 1859, to be compared with originals, ... 52 *note*.
of documents, books, &c., when to be filed instead of originals, ... 190,193
of *judgments*, not of translations of them, to be furnished to parties desirous of appealing, ... 90,105,208
of translations not to be received in evidence when original Judgment is forthcoming,... ... 105
of Judgments not to be received, unless authenticated, ... 104-105
of Judgments to be sent by Appellate to lower Court, ... 108,145
of wills how to be obtained, ... 218
CORPORAL PUNISHMENT: See WHIPPING.
COSTS of adjournment, by whom to be paid, ... 64
Travelling expenses of Ameens to be charged as,... 49
Also postage of Ameen's Reports, ... 70
of Registration of decrees, &c. how to be estimated, entered, and charged, ...155,156,176
of bringing up a prisoner in Jail as a witness, how to be paid, ... 227
COURT to be held regularly, ... 62,65
COURT-HOUSE: List of adjourned cases to be suspended in, ... 62
Copy of Rules for examination of witnesses to be hung up in, ... 62
COURTS: See EXEMPTED from personal attendance: SMALL CAUSE COURT.
Returns of stamp receipts in, and total cost of, Civil Courts called for, ... 22,23,141
Such returns to be henceforth annual, ... 101
Procedure for commitment of persons guilty of "false evidence," "forgery," &c., before Civil, 31
When the offence committed is triable by a Magistrate, as well as by the Court of Session, .. 167,168
Duties of Civil Courts under the Registration Act,... 153
Civil Court in recording judgment should direct registration, ... 157,158

Page

CROSS-EXAMINATION of witnesses, ... 64
CURATOR: Public Curator to furnish accounts annually, ... 116,117,146-147

D.

DECISION in original or authenticated copy of, to be sent with records of cases appealed to High Court, 28
DECREE: Form of, &c., ... 57 *note.*
Copies of, and certificates under Section 286, Act VIII. of 1859 not to be sent on the *public service*, but post-paid, ... 114
to be drawn up with reasonable despatch: Judge responsible for this, ... 62,65
Judge to make a memo. of date of signing, ... 62,65
Particulars to be observed in granting copies of, ... 59 *note.*
where and how to be registered, ... 154,155
Rules as to preparation of memoranda of registration of, ... 158—160
Cases of execution of, pending more than six months and one year to be shown in Statements Nos. 2 & 3,... 173
Memorandum of appeal should be embodied in the decree, ... 185
Civil Procedure Code to be strictly adhered to in drawing up, and Rules for, ... 200—202
should clearly specify the relief granted, ... 201
So that it shall not be necessary to refer to the records in execution, ... 201
Parties and their pleaders to attend to preparation of, ... 202
DEFENDANT: See APPEARANCE.
Production of documentary evidence by, ... 190
DELAY in deciding Civil suits and appeals when to be explained, ... 203 *note.*
DEMEANOUR of witness: Judge to record remarks as to, 52,63
DEPOSITS in hands of Nazirs not to exceed the amount of their security, ... 15,21 *note.*
Stamped receipts to be taken from parties receiving refunds of, ... 115
DESTRUCTION of Records: Rules to be observed as to,... 118,123
in Small Cause Courts, ... 135,136
DIARY to be kept by Civil Court Ameens, and inspected by Judge, ... 47,48 *note.*
DOCUMENTS, insufficiently stamped, not to be sent to Collector by Civil Court, who should receive the penalty, ... 12,13 *note.*
filed with plaint: memorandum of, to be made, ... 51 do.

Page

DOCUMENTS.—*Continued*
Copies of documents when to be filed, instead of the originals and how, ... 190,193,194
Copies filed under Section 39, Act VIII. of 1859, to be compared by Serishtadar, ... *52 note.*
Original to be retained when there is anything suspicious about it, ... 195
which plaintiff wishes defendant to produce, should be described, ... *52 note.*
Caution and instructions as to the receipt of documentary evidence, ... 189,195
in possession of opposite party how to be produced, 191
Reason for rejecting a document in evidence to be recorded, ... 193
Return of, in cases appealed to High Court before Act VIII. of 1859, ... 200
DOORGA POOJAH: See HOLIDAYS.
DUSSERAH: Statements to be submitted before Dusserah vacation leave be taken (1862), ... 2
Judicial Officers taking leave for, must join in time to sit on day Courts re-open, ... 88
Vacation of 1865, ... 108
Courts not to be closed, and business not to be wholly suspended for entire period of, ... 222,223

E.

ENGLISH: Preference to be given to candidates for ministerial employment, who know, ... 112
Registration memoranda when to be in, ... 155
Returns to precepts directing enquiry into the value of securities in Privy Council appeal cases to be in, ... 184
ENROLMENT: of Pleaders, ... 142—143,196
Application for enrolment on what stamp, and what to contain, ... 142
of Mookhtars, ... 143—144
ENQUIRIES: See LOCAL ENQUIRIES.
ESCORTS of treasure from the District Courts to the Sudder station, ... 37,43,75,76,225—226
ESTABLISHMENT: See MINISTERIAL ESTABLISHMENT.
Cost of public establishments how to be exhibited in Budget, ... 42
ESTIMATES: See BUDGET ESTIMATES: GUARDS: RETURNS: STATEMENTS:
EVIDENCE: Careless mode of taking by Native Judges reprobated, ...38,125—128
How to be taken——51-53, 60-61, &c., See WITNESSES.

Page

EVIDENCE,—*Continued*
if not properly taken, Appellate Court to report to the High Court, ... 61
memorandum of, to be sent up in appeals to the High Court, ... 61
irrelevant and inadmissible too often recorded, ... 63-192
rule to be followed as to hearsay, ... 63
question of admissibility of, how to be dealt with, 63
caution and instructions as to the receipt of documentary evidence, ... 189-195
masses of Account-books and papers sent up in appeal, how this may be checked, ... 191
EXAMINATION of parties, ... 55
of witnesses. See WITNESSES.
of candidates for Pleadership and Mookhtarship; 195
report of financial result of called for, ... 195
candidates for, where to pay their fees, ... 70
to give notice to Judge of District six weeks before,... 181
EXECUTION: See SALE: DECREE.
Sale or delivery of property in, to be effected by the Nazir, ... 46
Records of execution cases sent up in appeal to the High Court to be submitted complete, ... 186
Form of notice of, ... 58 *note.*
Cases pending more than six months and one year respectively to be shown in a separate column of Statements 2 and 3, ... 172-173
EXEMPTED from personal appearance in Civil Courts.
Abdool Gunny, ... 188
Ameer Alee Khan Bahadoor, ... 188
Degumber Mitter, ... 188
Nawab Syud Asghur Ali Khan Bahadoor, of Chitpoor, ... 19
Nawab Syud Azum Ali Khan, of Moorshedabad, .. 87
Prince Feroze Shah, of the Mysore family, ... 102
Prosonno Coomar Tagore, C. S. I., ... 188
Rajah Anundo Nath Roy Bahadoor, C. S. I., ... 188
Rajah Indro Bhoosun Deb Roy, of Newaldangah, Jessore, ... 90
Rajah Leelanund Singh, of Purneah, ... 25
Rajah Raj Krishna Singh Bahadoor, of Soosung in Mymensingh, ... 143
Ram Gopal Ghose, ... 188
Romanath Tagore, ... 188
Shah Ameerodin, of Behar, ... 134
Shah Golam, of Patna, ... 131
Shah Mahomed Ali Huboob, of Phoolwaree, ... 131

Page

EXEMPTED from personal appearance in Civil Courts.—*Continued.*
Syud Hasun Ali, of Moorshedabad, ... 87
Syud Hosain Ali, of Moorshedabad, ... 87
Syud Humayoon Kudi Mahomed Ali Mirza, of Moorshedabad, ... 200
Syud Sufdĕr Ali Khan, of Moorshedabad, ... 164
EXHIBITS: how to be dealt with when filed, ... 192-193
See DOCUMENTS.
EX-PARTE: Case cannot be decreed *exparte* without proof of service of summons and of claim, . 54-55 *note*
EXPLANATIONS to be given of delay in disposing of execution cases pending more than six months and one year, ... 172,173
when to be given of delay in deciding Civil suits and appeals, ... 205 *note.*
EXTRA PEONS: Employment and remuneration of, ...124,145-146

F.

FALSE EVIDENCE: Procedure for commitment of persons guilty of, before Civil Courts, .. 31
Particular statement on which perjury is assigned to be inserted in charge, ... 134
FEE FUND of Civil Ameens, ... 22,23,48,49
of peons. See PEONS.
FEES chargeable for services of Civil Court Ameens, ... 48
Returns of how to be prepared, ... 179
payable by candidates for the Pleadership examination, where to be deposited, ... 70
Scale of Pleaders' fees and rules as to, ... 149—152
Judges to be careful to award a specific sum as Pleaders' Fees in Miscellaneous cases, ...203,223-224
for the service of Civil process. Rules for the levy of, laid down, ... 215
FINANCIAL Department may adopt Budget Estimate, when, 43
FLY-LEAF: to be attached to record, showing papers contained therein: form of, ... 27,28 *note*, 188
FORGERY: procedure for commitment of persons guilty of, before Civil Courts, ... 31

G.

GOURHURRY BOSE resigned the office of Pleader of the High Court, ... 168
GRATUITIES: Quarterly statement of pensions and gratuities in what form to be submitted, . 33
Applications for, how to be forwarded, 66-67,74
GUARDS: Estimates for Police guards for treasure, .. 37,43,71

Page

H.

HALF-PAY to sick peons, ... 141
HEAD OF OFFICE: sanction of, necessary for the admission of apprentices, ... 110-111
HEARING of suit: Production of documents at first, ... 190
Judgment may be given at first hearing, when, 64
HEARSAY EVIDENCE: rule to be observed as to, ... 63
HIGH COURT: Payment of tulubana to ensure service of notices issued by, under Section 345, Act VIII. 1859, ... 40,222
Report to be made to, if evidence not properly recorded in subordinate Courts, ... 61
Translation into Urdú of proceedings conducted in another vernacular language need not be sent to, 74—75
Records called for by, to be sent in seven days, or explanation to be given, ... 76
of execution cases sent up in appeal to, must be submitted complete, ... 186
Vernacular papers not to be sent to; English letter should be written, ... 80
Enrolment of Mofussil Pleaders by, ... 142-143
of Mofussil Mookhtars by, ... 144
notice that Gourhurry Bose has resigned the office of Pleader of, ... 168
Directions to ensure all material papers being sent up with records of cases appealed to, ... 186-188
Resolution of, to return records of cases appealed before Act VIII. of 1859, ... 199-200
may direct prisoner in Jail to be brought up to give evidence, when, ... 227
HINDOO LAW Officers abolished, ... 85
HOLIDAYS: Certain days granted in addition to the Doorga Poojah, ... 45,87
for 1864, ... 67-68
for 1865, ... 97-98
for 1866, ... 132-133
for 1867, ... 181-182
Modification as to *Junmo Ashtomi*, ... 204
for 1868, ... 219-220
Report called for as to what holidays are observed by local usage, ... 223

I.

IMMOVABLE property: Registration of, ... 153-160
Rules for preparation of memoranda of registration, 158-159
INADMISSIBLE evidence, ... 63,192-193
INJUNCTION: form for, &c., ... 53 *note*, 54 *note*.
INSPECTION of wills, ... 218

Page

INSPECTIONAL tours to be made by Zillah Judges; Rules for, ... 71-73 and *notes*, 81-83
Registration of plaints to be seen to, on, ... 106
INSTITUTION: of suits in what Courts to be made, ... 50 *note*.
of a second suit for same cause of action, ... 50 *note*.
INVESTIGATIONS: See LOCAL ENQUIRIES.
IRREGULARITY: when found in proceedings of lower Court copy of judgment of Appellate Court to to be sent to, ... 145
IRRELEVANT evidence, ... 63,192-193
ISSUES: Summons when to be for settlement of, ... 52 *note*.
Court may dispose of case at once after framing, and hearing argument and evidence, ... 56 *note*.
or may fix a day for production of evidence and hearing argument, ... 56 *note*.
specimens of, ... 56 *note*.

J.

JAIL: Warrant of Civil Court committing to, how to be addressed, ... 123
Prisoner confined in *Civil* Jail how to be brought up as a witness, ... 179-180,226-228
Prisoner confined in *Criminal* Jail how to be brought up as a witness, ... 226-228
Prisoners when and how to be examined under a Commission, ... 227
commission may be addressed to *Officer in charge of Jail*, 227
service of summonses in Civil cases on prisoners, ... 227-228
JOINING time allowed to Uncovenanted Judicial Officers, 91
Modification of this rule as laid down in C. O. No. 30 of 24th September, 1864, ... 196
JUDGE: See JUDICIAL OFFICER: NATIVE JUDGES.
of District to visit Registry Offices under the old law, 37
to make inspectional tours of the Moonsifees; duties to be performed on and rules for, 71—73, 81—83,106
to examine diary of proceedings of Civil Court Ameens, ... 48 *note*.
to report violation of rules as to taking evidence by subordinates, ... 63
to endeavour to secure uniformity in the working of the Procedure Code, ... 59 *note*.
to watch and report on the working of the Peons' Fee Fund system, ... 77-78
to report on the working of the rules as to apprentices, ... 109
and on the state of the record-room, ... 117
to see that fly-leaf is attached to each *nuthee*, 188

Page

JUDGE.—*Continued.*
to remind Administrators under Act XL. of 1858 of duty of keeping accounts, ... 147
to supervise carrying out of the Registration Act, ... 157
to be guided by what rules, in enquiring into security in Privy Council appeal cases, ... 184
to watch carefully the working of the new stamp law, ... 199
to take what steps for the return of documents in cases appealed to the Sudder Court before Act VIII. of 1859,... 200
to submit statements of business *quarterly*, ... 204-205
but to receive and examine *monthly* statements from their subordinates, ... 205
to make quarterly returns of grants of Probate and Letters of Administration,... ... 216
not to close his Court and suspend all business during the Dusserah, ... 222-223
to fix one day in each month for Moonsiffs' remittances to Sudder Station, ... 226
may direct prisoner in Jail within his district to be brought up as a witness, ... 227
Rules for preservation and custody of Wills in office of, ... 217
Return of Registers kept in their offices called for, ... 113
Salaries of Nazirs of, ... 78,102
Judges or judicial officers authorized to observe certain additional holidays, ... 45,87
how to take evidence, ... 51-53,60-61,192, &c.
to record remarks as to demeanour of witnesses, ... 52,63
to make a memorandum of evidence, when not taken down in writing, ... 53
if unable to do so, to record reason of inability,... 54
Pressure of business, &c., no excuse for non-compliance with law, ... 55,57,60
Strict rules for taking evidence by, promulgated by High Court, ... 60-61
Copy of these rules to be hung up in Court-house, 62
How to grant adjournments, ... 61-62
in what order to examine witnesses, ... 64
how to deliver judgment, ... 62
responsible that decree be drawn up in a reasonable time, ... 62
to make a memo. on decree of date of signing it, ... 62
to sit punctually, ... 62,65
how to act as to hearsay evidence, ... 63

Page

JUDGE.—*Continued*-
and where he is in doubt as to admissibility of evidence, ... 63
held responsible for manner in which evidence is recorded, ... 64
character and merits of, will be estimated how, ... 65
not to allow salary of office to be drawn by person not performing duties of, ... 108
Returns of stamp duty called for from, 130,137,138—140,147-148
asked, if they would recommend a redistribution of salaries of amlah, ... 178
Rules for the receipt of documentary evidence by, 192, &c.
to make a note of every exhibit filed, ... 193
to record reasons for rejecting any exhibit, ... 193
Directions to, for drawing up decrees, ... 201-202
to award a specific sum by way of Pleaders' Fees in Miscellaneous Cases,... 203,223-224
JUDGMENT when and how to be delivered,... ... 62,65
may be given at first hearing, when, ... 64
to be dated and signed in open Court, when pronounced, ... 93
registration of, when required by law, to be directed therein, ... 156-157
of Appellate Court under Act X. of 1859, to be communicated to Lower Court through Collector, 108
copy or translation of, of Appellate Court to be sent to Lower Court, when proceedings irregular, ... 145
copies of *judgments*, not of translations of them, to be given to persons wishing to appeal, ... 90,105,208
and these copies must be authenticated, ... 104,105
JUDICIAL Officers: on leave not allowed to practise as pleaders,... 30,31
not to be appointed to districts in which they have interest in land, ... 106
if so appointed inadvertently, to bring the fact to notice, ... 106-107
Time for joining their stations allowed to Uncovenanted, ... 196
See JUDGE: NATIVE JUDGE.

L.

LABELS: Rules as to Service Labels, ... 145-147
LAND: Judicial officers not to be appointed to districts in which they have interest in land, ... 106
LANGUAGE to be used in plaints, proceedings, &c. in Mofussil Courts, to be vernacular of district,... 84
LAW-BOOKS in the offices of Mofussil Civil Judges, .. 84
LAW-OFFICERS: Hindoo and Mohammedan, abolished,... 85

	Page
LEAVE: Application for, to be sent through Civil-Pay Master, ...	74
Vacation leave to judicial officers stands in place of privilege leave to other officers, ...	88
penalty for not returning to duty on expiry of leave, ...	88
LICENSE to plead: old form of,...	100
LIST of adjourned cases to be suspended in Court-house,	62
LOCAL ENQUIRIES: Appointment of suitable persons to make, &c., ...	56-57 *note.*
Clear instructions to be given to Ameens for making,	47
Directions as to when they are necessary or otherwise, ...	47-48,177
Travelling allowance of Ameens deputed to make,	49
Moonsiff not to be directed, order of remand by, to make in person, ...	225

M.

MAGISTRATE cannot release salt, the seizure of which is warranted by Section 18, Act VIII. (B. C.) of 1864, ...	198
MAPS how to be sent up with records in appeal, ...	185
MEERAN FEES: Account of receipts of, in 1861 &c., called for, to be credited to Government, and to be paid to the Nazirs no longer, ...	1,36 21 *note*, 34
Quarterly statements of receipts of, to be submitted till further orders, 21 *note*,—and discontinued, .	36
MEMORANDUM of substance of evidence when to be made and how,...	53-57
If Judge unable to make, reason of inability to be recorded, ...	54
To be sent up to the High Court in appeals, Regular and Special, ...	61
of Registration where to be sent, clearly to describe the property, &c., ...	154-155
Rules as to the preparation of, ...	158-160
not required in what cases, ...	160
of appeal to be incorporated in the decree, ...	185
what it should contain, ...	185-186
MINISTERIAL ESTABLISHMENTS sanctioned for Subordinate Judicial Courts, ...	20,21
Committee appointed to report on increase of salaries of, ...	173
Pensions of members of, when salaries paid from a sanctioned scale of charge, ...	35
and when from a contract allowance, ..	35
Judges asked, if they would recommend a re-distribution of salaries of, ...	178

Page

MINISTERIAL.—*Continued.*
Ministerial officers to attend to calls for records by High Court, ... 77
head ministerial officer to certify that all material papers are sent up, ... 187
Travelling allowance of Ministerial officers, 100,101, *and note.*
Rules for selection of candidates for employment in, 109,111
MISCELLANEOUS proceedings; Fees to be allowed to pleaders in, ... 151,203,223-224
MISJOINDER: of two or more causes of action, ... 50
MOHAFIZ: See RECORD-KEEPER.
MONEY ORDERS to be used in remitting tulubana, ... 39
MOOKHTARS: Rules for enrolment of, ... 143
application for enrolment how to be made and to whom, ... 144
stamped certificates of to be furnished by Superintendent of Stationery, ... 153
Register of Mókhtarnamas, ... 197
MOONSIFFS: See NATIVE JUDGES.
List of, called for, showing Diploma-holders and non-Diploma-holders, and those knowing and not knowing English, ... 3
how and when to make remittances of money to the Collector's Treasury, ... 15,37,43, 21 *note.*
not to keep more money than is covered by the Nazir's security, ... 15, 21 *note.*
Allowance to, for stationery, ... 20 *note.*
Establishment sanctioned for Courts of, ... 21
Offices of Serishtadar and Nazir in Courts of, separated and salaries fixed, ... 22 *note.*
Care to be exercised by, in directing local enquiries, 47-48
Judges to visit and inspect Courts of,... ...77-73, 81-83
to report to Zillah Judge appointments of Rs. 10 per mensem or upwards, ... 110
apprentices in offices of, ... 109-110
to be allowed punkah-pullers, ... 178
to submit *monthly* statements of business to District Judge, ... 205-206
not to be directed by order of remand to make a local investigation, ... 225
MUKHTARNAMAS to be filed with plaint, ... 52 *note.*

N.

NATIVE JUDGES: See JUDGES: JUDICIAL OFFICERS.
NAZIRS to be employed in delivering possession of and effecting sale of property in execution, ... 46
also in effecting attachments of moveable and immoveable property, ... 47

Page

NAZIRS.—*Continued.*
Moonsiffs not to keep more money than is covered by security of, ... 15,21 *note.*
Ikramamahs to be taken from, with advertence to Section 14, Regulation XXVI. of 1814, ... 22
to be paid by fixed salaries, and to receive *meeran* fees no longer, ... 21 *note.*
Salaries of Judges' Nazirs raised to Rs. 50 per mensem, ... 78
and those of eleven districts to Rs. 75, ... 102
Salaries of Nazirs in Subordinate Civil Courts, ... 22 *note.*
Salaries of, in Courts of Small Causes, ... 34,36
Advisability of abolishing Nazirs in Courts of Small Causes considered, ... 84
Increase in salaries of Nazirs of Civil Courts sanctioned, ... 199
Salaries of, to be charged to Poons' Fund, and consequent alteration of form of this return, ... 135
Roll showing age and name of, called for, ... 217
NEW TRIAL: Application for in Small Cause Courts to be made on what stamp, ... 129,219
Procedure, on application for, ... 129 *note.*
NON-REGULATION PROVINCES: Statements from, made *quarterly* instead of *monthly*, ... 1
But Judicial Commissioners may require monthly statements from their subordinates, ... 1
Certain returns called for from, ... 135
NOTICES: under Section 345, Act VIII. of 1859, issued by High Court, directions to ensure service of, ... 40
of execution: form of, ... 58 *note.*
to produce documents in possession of opposite party, 191
NOTIFICATION as to the hearing of the Regular and Special Appeals of 1862, ... 2
as to probate and certificates of probate of the will of Ramchunder Paul Chowdry, ... 24
NUTHEES: Rules to be observed as to the destruction and preservation of, in Civil Courts, ... 118-123
in Small Cause Courts, ...135-136,176
Directions to secure all material papers being sent up with, in appeal to High Court, ... 186—188
Fly-leaf to be attached to, showing papers contained therein, ... 27,28 *note*, 188

O.

OBLIGOR and Registering Officer only need sign specially registered bond, ... 161
OFFICIAL Correspondence: Rules as to, ... 165-167,169,171

Page

ON HER MAJESTY'S SERVICE: Rules as to official correspondence sent on, ... 165—167,169,171
ONUS PROBANDI—The witnesses of the side on which it falls, to be first examined, ... 61

P.

PARTIES to suit chargeable with travelling allowance of Ameens, ... 49
to pay postage of Ameens' reports, ... 70
Personal attendance of, when to be enforced, ... 53 *note*.
Death, marriage, and bankruptcy of,... 54 *note*.
Examination of—Putting particular questions to, 55 *note*.
when to produce documents in evidence, ... 190, &c.
how to obtain production of documents in possession of opposite parties, ... 191
and their pleaders to attend to preparation of decrees so as to avoid mistakes, ... 201
PAUPER SUITS: Rules for levying the stamp fees of Government in, ... 95-96
Returns of, to be furnished to the Collector, .., 95 *note*, 96 *note*.
PENDING CASES: Explanation to be given as to, .. 172-173,180
PENSIONS: Quarterly statement of gratuities and pensions in what form to be submitted, ... 33
Service on establishment paid from *contract allowance*, and not from *sanctioned scale* of *charge*, does not count for pension, ... 35
applications for, how to be submitted, ... 66,67,74
PEONS to be remunerated by fixed salaries, instead of *tullubana* fees, ... 17
Wages of, ... 77,86
Wages of, increased, ... 199
to be of two grades, and number in each grade, ... 77,86
Return as to cost of, to be submitted, ... 78
also as to number required in Small Cause Courts, ... 36
to be furnished with belts and badges, ... 94
allowed half pay, when sick, ... 141
Deputation of, to assist Civil Court Ameens, ... 124
Rules laid down as to the mode of levying fees for service of process by, ... 215
Extra peons how to be employed and remunerated, 124,145,146
See PROCESS.
PEONS' FEE FUND: Salaries of Nazirs to be charged to, 135
Tolls paid by Peons on District Roads and Bridges to be debited to, ... 197
PERGUNNAH CAZEES to send in their books and seals, their office having been abolished, ... 79
PERJURY: See FALSE EVIDENCE.

	Page
PERSONAL ATTENDANCE of parties in Court when to be enforced, ...	53 *note.*
List of persons exempt from—See EXEMPTED.	
PLAINT: Procedure to be followed when it is presented, ...	50 *note*, &c. 105
how to be verified, ...	50 *note.*
rejection of, ...	51 *note.*
language of, to be vernacular of the District, ...	84
to be examined and registered without delay on being filed, ...	105
and Judges to see to this on their tours of inspection, ...	106
receipt or plaint-note to be given on filing of, in Small Cause Courts, ...	128 *note.*
old rule rescinded as to stamp on plaint in suit on bond, ...	203
PLAINTIFF must attend personally or otherwise when, ...	50 *note.*
when to produce his documentary evidence, ...	190, &c.
PLEADERS: See AUTHORIZED AGENTS: VAKALUTNAMAS.	
Enrolment of, under the Pleaders' Act, ...142,143,196	
application for, on what stamp, what to contain, to whom to be made, &c., ...	142
certificates of, authorize them to practise in what Courts, ...	172
forms for certificates to be supplied by Superintendent of Stationery, ...	153
relegated to lower Courts, having been erroneously admitted to plead in Judges' Courts, ...	3
reconsideration and modification of this order,...	88-89
in Courts of Small Causes, ... 45,130 *note.*	
old form of license to plead, ...	100
Judicial officers on leave not allowed to practise as,	30,31
cautioned as to irregular mode of putting in written statements, ...	80
when to produce documentary evidence, ...	190, &c.
course to be pursued, when unable to answer questions in a suit, ...	55 *note.*
to attend to preparation of decrees and to sign them,	202
Gour Hurry Bose ceased to be a pleader of the High Court, ...	168
Fees of; scale of, and rules laid down as to, ...	149-152
Erratum in those rules, ...	168
Fees where several defendants have a joint or common interest, ...	150
where separate interests, ...	150
in miscellaneous proceedings, ... 151,203,223-224	
in undefended cases, ...	151
in reviews, ...	151

Page

PLEADERS.—*Continued.*
Fees of, in appeals, ... 151
in Courts of Small Causes, ... 171-172
in cases remanded, ... 152
in suits for enforcing specially-registered obligations,... 172
discretion of the Court in the matter of, ... 152
PLEADERSHIP Examination: Candidates for, where to pay their fees, ... 70
to give notice to Judge of District six weeks before, &c., ... 181
Report as to financial result of, called for, ... 195
PLEADINGS: Language of, to be vernacular of the district, 84
POLICE: Escorts of, for treasure from the Courts in the district to the Sudder Station, ... 37,43,71,73-76,225-226
Travelling allowance of police officers, . 100-101 & *note.*
POSSESSION: Delivery of, of property in execution to be effected by Nazirs, ... 46
POSTAGE of Ameens' Reports to be paid by the parties, 70
of processes sent to Sheriff of Calcutta for service, to be paid, ... 114
of copies of decrees and certificates under Section 286, Act VIII. of 1859, to be paid, ... 114
POSTAGE STAMPS when and how to be used in remitting *tulubana*, ... 39
POST-OFFICE: Rules for official correspondence under the New Act, ... 16,167,169,171
claims of subordinates to promotion, &c., to be sent through postpaid, and not forwarded by Public Officers on H. M.'s service, ... 103
POSTPONEMENT. See ADJOURNMENT.
PRACTICE of the Courts to be regulated by careful study of the Code, ... 195
PRE-AUDIT of contingent charges, ... 104
PRECEPTS directing inquiry into securities in Privy Council Appeals: Returns to, how to be made, ... 184
PRESSURE of business, no excuse for not complying with requirements of the law, ... 55,57,60
PRINCIPAL SUDDER AMEEN (now SUBORDINATE JUDGE. See Act XVI. of 1868.)
to report appointments of ministerial officers on Rs. 10 and upwards, ... 110
apprentices in offices of, ... 109-110
to submit monthly statements of business to District Judge, ... 205-206
not to direct Moonsiff by order of remand to make a local investigation in person, ... 225

Page

PRINTING: no higher rates for, to be admitted than those of the Alipore Jail Press, ... 138
PRISONER confined in Civil Jail how to be brought up as a witness, ... 179-180,226-228
confined in criminal Jails how to be brought up as witness, ... 226-228
when and how to be examined under a Commission, 227
service of summons in Civil cases on, ... 227-228
PRIVILEGE leave: Vacation leave to Judicial officers equivalent to, ... 88
Penalty for overstaying, ... 88
PRIVILEGED OFFICES for official correspondence, 165-167, 169,171
PRIVY COUNCIL Appeals: Security tendered for, how to be enquired into, ... 184
remarks as to masses of accounts and papers being sent up in, ... 194
PROBATE: Registration where probate of will granted, 160
Quarterly return of grants of, and form for, .. 216
PROCEDURE for commitment of persons guilty of "false evidence," "forgery," &c., before Civil Courts, 31
to be observed in taking evidence, &c., . 38,50-65
Civil Procedure Bill forwarded for remarks and observations, ... 86
PROCESS: Resistance of, how punishable, ... 19,58 *note.*
Postage of, sent for service to the Sheriff, to be paid, 114
of original Court and Appellate Court how to be issued, ... 114,115
Rules for the levy of fees for service of civil, ... 215
PROHIBITION: orders of, ... 58 *note.*
PUBLIC Officers not to forward to Government representations as to personal services of their subordinates, ... 103
PUBLIC SERVICE: Ameens' Reports not to be sent by, post on, ... 70
nor copies of decrees and certificates under Section 286, Act VIII. of 1859, ... 114
nor processes sent to Sheriff for service, ... 114
See POST OFFICE.
PUNKAH-PULLERS to be allowed to Moonsiffs, ... 178

R.

RAMCHUNDER Paul Chowdry: notification as to will of, 24
RECEIPTS: stamped receipts to be taken from persons receiving refunds of judicial deposits, ... 115
or plaint-note to be given on filing of plaint in Small Cause Courts, ... 128 *note.*
RECORD: Fly-leaf to be attached to, showing papers contained therein, ... 27,28 *note*, 188

Page

RECORD.—*Continued.*
High Court resolve to return records of cases appealed before Act VIII. of 1859,. 199-200
Original decision or authenticated copy thereof to be sent with records of cases appealed to High Court, ... 28
Called for by High Court to be sent in seven days or explanation to be given, ... 76
Directions to secure all material papers being sent up in appeals to High Court, ... 186-188
rules to be observed in the arrangement, destruction and preservation of, ... 118-123,200
destruction of, in Small Cause Courts, ...135-136,176
of execution, cases sent up in appeal to the High Court to be submitted complete, ... 186
RECORD-KEEPERS: duties of, &c., ... 118-123
RECORD-ROOM: Judges to report on state of, after careful personal enquiry, ... 117
REFUND of stamp duty when to be made, ... 13
to be shown in returns, ... 141
new form of certificate for refund of stamp duty, ... 206-207
REGISTER: prescribed by Section 4, Regulation XVIII. of 1793, to be discontinued, ... 27
to be kept by Civil Court Ameens, ... 48 *note.*
of returned and rejected plaints, ... 51 *note.*
Plaints to be registered without delay on being filed, 105
Return of registers kept in offices of Zillah Judges called for, ... 113
of stamp duties, form for, ... 209-214
of wills, ... 217
REGISTRAR of the High Court: all correspondence, parcels &c., to be addressed to, ... 171
REGISTRATION: Instructions under the new Registration Act, 153-161
Difference between duties of Civil Courts under the old and new acts, ... 153,154
to what Registrar memoranda of decrees are to be sent, ... 154
memorandum must clearly describe property, ... 155
copy of, to be sent with records to Appellate Court, 155
costs of, how to be estimated, entered and charged, ...155-156,176
form of memorandum, ... 157,163
no memorandum required, in what cases, ... 160
language to be used in memoranda, ... 155,157
paper to be used for memoranda, ... 175
Rules as to the preparation of the memoranda, 158-160
when probate of will granted, ... 160

Page

REGISTRATION.—*Continued.*
when a judgment has been reviewed and reversed or modified, ... 160
when compulsory and when not, and effect of, ... 160-161
Limitation applicable to registered instruments, ... 161
Enforcement of *specially registered* obligations, ... 161
A new head to be opened in monthly (now *quarterly*) Statement No. 2 to meet requirements of the law, 161
Forms, ... 162-161,189
REGISTRY Offices to be visited by the Judge, ... 37
REMANDS: Caution given to Lower Appellate Courts as to, 173-174
when properly made, ... 173
when improperly made, ... 174
Pleaders' fees, when a case is remanded, ... 152
Moonsiff not to be directed by order of, to make local enquiry in person, ... 225
REMITTANCES of Money to Collector's Treasury, how to be made by Moonsiffs, ... 15,37,43,75,76,225-226
See ESCORTS:
REPORT to be made to High Court when Appellate Court finds evidence improperly recorded, ... 61
See ANNUAL REPORT.
Difference between report of Commissioners appointed to make local investigations and to investigate accounts, ... 57 *note.*
as to destruction of records and state of record-room, 117,119
RESISTANCE: see WARRANT.
of process: how punishable, ... 19,58 *note.*
RETURNS: See STATEMENTS.
Quarterly return of grants of Probate and Letters of Administration to be made, ... 216
called for, of persons imprisoned in 1862, who were before punishable with flogging, ... 26,27
various returns called for, from Small Cause Court Judges, ... 15,18,29,36
of cost to Government of Civil Courts and of stamp receipts &c., therein, ... 22,23,29,101
of suits disposed of, and of stamp-duty, 130,137,138-140,147-148
to precepts directing inquiry into securities in Privy Council Appeal cases, how to be made, ... 184
REVIEWS: Pleaders' Fees in, ... 151

S.

SALARY cannot be drawn by person not performing duties of appointment, ... 108
SALE AMEEN for Courts of Small Causes and his commission, ... 34

	Page
SALE of property in execution to be effected by Nazirs,	46
Pre-payment of Ameens fees, in cases of, ...	48
in execution may be postponed when, ...	59 *note.*
of land paying revenue to Government, ...	59 *note.*
Registration of sale and of reversal of sale, ...	159
SALT seized under Section 18, Act VII. (B. C.) of 1864, cannot be released by a Magistrate, ...	198
SANCTION required before an increase of establishment or addition to salary is inserted in the annual budget estimates, ...	30,41
SECURITY: See NAZIRS.	
in cases of appeal to the Privy Council how to be enquired into, ...	184
SERISHTADAR: Offices of, and Nazir in Moonsiffs' Courts separated, and salary of former, ...	22 *note.*
to compare with originals copies of documents filed under Section 39, Act VIII. of 1859, ...	52 *note.*
to prepare memoranda to be filed with record, showing date of hearing and of written statements being filed, ...	81
Should be consulted as to the employment of amlah and apprentices, ...	112
Head ministerial officer to certify that all material papers are sent in an appeal to the High Court,	187
SERVICE required for pension: See PENSION.	
labels or stamps for letters sent on the Public Service,	145 &c.
SHERIFF: Postage of process sent to, for service, to be paid,	114
SHOP-BOOKS: how to be produced in evidence,	...190,193,191
SMALL CAUSES: Courts of, Rules of practice for, ...	128 *note.*
Application for new trial in, to be made on what stamp, ...	...129,130,219
procedure on application for, ...	... 129 *note.*
Pleaders in, ...	... 45,130 *note.*
Fees of, ...	171-172
Clerk of, may sign certain process "*by order*," ...	89-90
Destruction of records in,.. ...	...135-136,176
Nazirs in, to receive no more *meeran* fees; salaries of, &c., ...	34
Propriety of abolishing nazirs in, considered,...	84
Sale ameen and his commission, ...	34
Return as to peons, nazir, amount of *tulubana*, *meeran* fees, &c., called for, ...	36
Peons of, to be furnished with belts and badges,...	94
employment of extra peons, ...	140
Contingent expenditure how to be sanctioned and regulated, ...	101
Contingent bills to be submitted in duplicate, ...	29

	Page
SMALL CAUSES: Courts of.—*Continued.*	
charges for book-binding not be included in contingent bill, ...	222
Travelling allowance not included in contingencies and rules for, ..	198
Preparation of budget for 1867, and meaning of 'allotment,'	148
Chowkeduree tax on Court-house to be provided for in, ...	124
certain monthly returns to be submitted from, ...	15
Forms of, ...	16,17,18
Returns of several Courts presided over by same Judge to be separate, ...	107
Returns of *Peons' Fee Fund* called for, ...	78
of stamp receipts and cost of Courts in 1862, ...	29
of suits for more and less than Rs. 20, ...	103,113
of scale of establishment in, ...	196
SPECIALLY Registered Obligations how enforced, ...	161
Obligor and Registering officer only need sign, ...	161
Pleaders, Fees in suits on, ...	172
STAMP-DUTY in pauper suits how to be levied, ...	95-96
statement of, to be furnished to Collector,	95 *note*, 96 *note*.
Returns of, called for from Zillah Judges,	130,137,138-140
Form of Register of, to be used in Civil Courts, ...	209-214
See REFUND.	
STAMP-LAW: The provisions of, explained and elucidated,	12-14
Judges to watch carefully the working of, ...	199
Old rule as to stamp on plaint in bond cases rescinded, being inconsistent with present law, ...	203
STAMP paper required for copies must all be put in, before time for obtaining copy begins to count,	92
STAMP-receipts: returns of, called for in a prescribed form,... ...	22,23,29,101,130,137,138,140,141
STATEMENTS. See RETURNS.	
of Civil business to be in future submitted *quarterly*,	204,205
but District Judges may call for monthly returns from their subordinates, ...	205
Place of residence of judicial officers and acquaintance with English to be mentioned in, ...	175
of suits and appeals decided by the Civil Courts prescribed, ...	204 *note*.
date for submission of, and delays when to be explained, ...	205
to be submitted before Dusserah vacation (1862), ...	2
from non-Regulation Provinces made *quarterly* instead of *monthly*, ...	1

Page

STATEMENTS.—*Continued.*
opening of new heading in No. 2 to meet requirements of Registration Act, ... 161
and in Nos. 2 and 3 to show execution cases pending beyond 6 months and a year, ... 172,173
of pensions and gratuities; Quartorly form of, ... 33
of lands and emoluments enjoyed by cazees called for, 73
certain statements called for from Judges of Courts of Small Causes, ... 15,18,29,36
STATIONERY: Allowance for, to Moonsiffs,... ... 20
Returns as to cost of, called for, ... 180-181
SUBORDINATE JUDGE: See PRINCIPAL SUDDER AMEEN.
SUITS: See PARTIES.
to be instituted in what Courts, ... 50 *note.*
may be withdrawn from subordinates by Judges and Additional Judges,... .. ... 50 *note.*
Is there any penalty on parties for delay, in proceeding with? ... ... 52 *note.*
Abatement, interruption of, ... 54 *note.*
Pleaders' Fees in Civil suits, scale of and Rules as to, 149-152
statements of suits and appeals decided by the Civil Courts prescribed, ... 204 *note*
explanations of delay in deciding, when to be given, 205 *note.*
SUMMONS when to be for settlement of issues and when for final disposal, ... 52 *note.*
in Small Cause Courts when returnable, ... 128 *note.*
-Book in Small Cause Courts, ... 129 *note.*
old rule as to service of, and roobikaree for information of official superior of party summoned, rescinded, ... 224
or defendants in civil cases, who are prisoners in jail, ... 227-228
SUPERINTENDENT OF STATIONERY: Indents for printed forms must be sent to, .. 138
to supply stamped certificates of Pleaders and Mookhtars,... 153
to supply forms for Registration Memoranda, ... 175
to supply new form of certificate for refund of stamp duty, ... 206-207

T.

TOLL paid by Civil Court Peons on District Roads and bridges to be debited to Peons' Fee Fund, ... 197
TOURS to be made by Zillah Judges and rules for, 71-73 *& notes.*
Rules as to, ... 81-83,106
TRANSLATIONS: Copies of *judgments* not of translations of them to be furnished to parties, ... 90,105,208
TRANSLATORS of Judges' Courts: duties of, ... 92

GENERAL RULES

AND

CIRCULAR ORDERS

OF THE

CALCUTTA HIGH COURT.

(CRIMINAL SIDE.)

Re-printed by Permission of the Court,

AND

EDITED, WITH THE ADDITION OF AN INDEX,

BY

C. D. FIELD, ESQ.,

BENGAL CIVIL SERVICE, REGISTRAR OF THE COURT ON ITS APPELLATE SIDE,
AUTHOR OF "THE LAW OF EVIDENCE IN INDIA,"
"RENT LAW PROCEDURE, &C. &C.

CALCUTTA:

PRINTED BY C. B LEWIS, AT THE BAPTIST MISSION PRESS.

1868.

GENERAL RULES

AND

CIRCULAR ORDERS

OF THE

CALCUTTA HIGH COURT.

(CRIMINAL SIDE.)

Circular, No. 1.

DATED CALCUTTA, THE 7TH AUGUST, 1862.

Circulates, for information and guidance, a copy of a letter, No. 160, from the Registrar of the High Court of Judicature at Fort William in Bengal to the Sessions Judge of East Burdwan, dated Calcutta, the 6th August, 1862.

The Chief Justice.
Mr. Justice Raikes.
" " Trevor.
" " Morgan.
" " L S Jackson.

I am directed to acknowledge the receipt of your letter, No. 121, of the 18th ultimo (which was unaccompanied by the enclosure referred to therein) requesting to be informed whether witnesses in petty cases, *i. e.*, cases falling under Chapter XV. of the Code of Criminal Procedure, are entitled to claim payment of their expenses from the litigant parties, and if so, at what rate, and suggesting that a certain procedure should be observed with respect thereto.

2. Act VII. of 1846, which provided for the diet money of witnesses summoned in petty cases, has been repealed by Act XVII. of 1862, and no provision to supply its place has been made by the Code of Criminal Procedure or any other Act now in force.

3. The Court therefore consider that they have not the power to direct the observance of the procedure proposed by you.

4. I am also directed to point out that in cases under Chapter XV. of the Code of Criminal Procedure, Magistrates should confine the issue of summonses under Section 262 to cases in which it shall be satisfactorily proved that the person, for whose attendance the summons is applied for, is likely to give material evidence, and that he will not voluntarily appear; leaving parties ordinarily to bring their own witnesses on the day fixed for the hearing of their case.

Circular, No. 2.

DATED CALCUTTA, THE 13TH AUGUST, 1862.

Mr. Justice Trevor.

The Court are pleased to adopt the following Circular Order issued by the Sudder Court at Agra on the 26th ultimo.

"Difficulty having been frequently experienced in decipher-
"ing the Memoranda of the substance of the evidence of wit-
"nesses recorded under the provisions of Act XXV. of 1861,
"the attention of all Criminal Officers is called to the necessity of
"carefully writing these Memoranda in a legible manner.

"2nd. In the case of trials forwarded to the Nizamut
"Adawlut in which, from any cause, the Memoranda in ques-
"tion have been indistinctly or illegibly recorded, *copies* of such
"Memoranda should be submitted with the record of the case."

Circular, No. 3.

DATED CALCUTTA, THE 25TH AUGUST, 1862.

The Chief Justice.

I am directed to draw your attention to the following errors in the Bengali Translation of the Code of Criminal Procedure, and to request that you will call for and correct the copies that may have been distributed by you among your subordinates.

(1). In Section 199 of the Code—where instead of "a memorandum to be signed by the Magistrate," the rendering is "*written* by the Magistrate."

(2). In Column 7 of the schedule, opposite the heading referring to Section 380 of the Penal Code—where for "Ditto" should be read "Court of Session or Magistrate of the District."

(3). In Column 7 of the schedule, opposite the 2nd Clause of Section 457 of the Penal Code—where a precisely similar error to the foregoing has occurred.

Circular, No. 4.

DATED CALCUTTA, THE 26TH AUGUST, 1862.

Mr. Justice Trevor.

I am directed to request that you will in future give authenticated copies of your decisions in English, in addition to the vernacular translations thereof, to all parties applying for such in order to prefer any appeal or make any reference to this Court.

Circular, No. 6.

DATED CALCUTTA, THE 25TH NOVEMBER, 1862.

Mr. Justice Raikes.

* Amount spent from January to May, 1862, .. }
Amount estimated for as likely to be incurred from June, 1862 to April, 1863, ... }

With reference to your return to Circular, No. 17, dated the 2nd June last, I am directed to inform you that the Court have been authorized by the Lieutenant-Governor to sanction your estimate as per margin* for serving criminal processes through other than Police agency during the current financial year. This amount must on no account be exceeded, and you should bear in mind that resort is to be had to other agency only when the Police force are found insufficient to serve the processes.

Circular, No. 7.

DATED CALCUTTA, THE 16TH DECEMBER, 1862.

Mr. Justice Raikes.

The Court are pleased to adopt the following Circular issued on the 13th ultimo by the Western Court.

"The Court are pleased to direct that whenever the period, during which an appeal is pending before a Sessions Judge, exceeds 30 days, explanation shall invariably be afforded in Column 14 of Sessions Judge's Monthly Statement, No. III."

Circular, No. 10.

DATED CALCUTTA, THE 14TH NOVEMBER, 1862.

Mr. Justice Raikes.

I am directed to forward the accompanying copy of a letter, No 4077, dated the 4th instant, from the Government of Bengal, and of its enclosures, and to request that you will, as soon after the close of the year 1862 as practicable, furnish the information therein required in the form prescribed by the Government of India.

Copy of Letter, No. 4077, from the Under-Secretary to the Government of Bengal to the Registrar of the High Court, dated Fort William, the 4th November, 1862.

I am directed to forward to you copy of a letter, No 6035, dated 28th ultimo, from the Secretary to the Government of India, in the Home Department, together with its enclosure, and to request that the Judges of the High Court will have the goodness to favor the Lieut-Governor with a Return prepared in the form laid down by the Government of India, as soon after the close of the year as may be practicable.

(Copy.)

No. 6035, from the Secretary to the Government of India, to the Officiating Secretary to the Government of Bengal, dated Fort William, the 28th October, 1862.

I am directed by the Governor-General in Council to request that, with the permission of the Hon'ble the Lieutenant-Governor, you will have the goodness to submit to this Department, as early as may be possible, after the beginning of 1863, a Return in the annexed Form, shewing the number of Criminals sentenced during the year 1862 for terms of seven years and upwards, and the number of such persons who have been sentenced to *Transportation* under the power given to the Courts by Section 59 of the Indian Penal Code.

Districts.	No. of persons sentenced to imprisonment for 7 years.	No. of persons sentenced to imprisonment for terms exceeding seven years and not exceeding ten years.	No. of persons sentenced to imprisonment for terms exceeding ten years and not exceeding 14 years.	No. of persons sentenced to transportation for 7 years in lieu of imprisonment under Section 59 of the Penal Code.	No. of persons sentenced to transportation for terms exceeding 7 years and not exceeding 10 years in lieu of imprisonment under Section 59 of the Penal Code.	No. of persons sentenced to transportation for terms exceeding 10 years and not exceeding 14 years in lieu of imprisonment under Section 59 of the Penal Code.

Circular, No. 1.

DATED CALCUTTA, THE 8TH JANUARY, 1863.

Forwards a copy of a letter, No. 5829, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 31st December, 1862, to the Criminal Authorities in the Lower and Extra-Regulation Provinces, with a request that a report may be furnished as soon as possible to the Court on the practical working of the Penal Code, so far as the suspension of corporal punishment may have had any effect during the past year, together with an expression of their opinion regarding the expediency of retaining flogging as a punishment, with the offences, for which the punishment, if it be retained, shall be inflicted.

(Copy.)

I am directed to forward to you the accompanying copy of a Resolution No. 7312, recorded by the Government of India, in the Home Department, under date the 20th instant, and to solicit that the Court, after consulting the criminal authorities under their control, will be so good as to favor the Lieutenant-Governor with a full report upon the practical working of the Penal Code, so far as the suspension of *corporal punishment* may have had any bearing thereon, together with an expression of their present opinion, as confirmed or modified by the past year, regarding the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, shall be made applicable.

No. 7312.

Extract from the Proceedings of the Right Hon'ble the Governor-General of India in Council, in the Home Department, (Legislative), under date the 20th December, 1862.

Read the following papers regarding—

(I.) The Bill to provide for the punishment of flogging in certain cases.

II. The Bill to authorize the punishment of whipping in certain cases.

Letters from the Chief Secretary to the Government of Bombay, No. 122, dated 11th January, and No. 298, dated 1st February 1861, and the enclosures of the former from the Registrar of the Bombay Sudder Fouzdary Adawlut.

Letter from the Foreign Department, No. 1864, dated 16th April 1861, and its enclosure, being a correspondence with the Chief Commissioner of Oudh.

Petition of the British Indian Association, dated 15th August 1861, and enclosure.

Letters from the Secretary to Government, North-Western Provinces, No. 253 A, dated 24th April 1861, and No. 441 A, dated 23rd June 1862, and their respective enclosures, from the Registrar of the Sudder Court.

Letter from the Secretary to the Chief Commissioner of the Central Provinces, No. 82, dated 23rd September 1862.

Letter from the Secretary to the Government of the Punjab, No. 520, dated 15th September 1862.

Letter from the Judicial Commissioner of the Punjab, to the Secretary to the Government of the Punjab, No. 362, dated 21st June 1862, and its enclosure.

RESOLUTION.

The Governor-General in Council observes that the Reports submitted by the Local Governments and Authorities, regarding the Bills above mentioned, exhibit a very considerable diversity of opinion among officers of experience, both with respect to the policy of employing corporal punishment as a legal penalty in any case, and regarding the extent to which, if legalized, the penalty should be used, and the offences for which it should be administered.

But the Governor-General in Council remarks that these opinions were given at a time when the punishment of flogging was still in use in the greater part of the British territories in India,

and in other parts had only just ceased to be used. It is now, however, nearly twelve months since the introduction of the Penal Code, which does not permit corporal punishment to be inflicted in any case.

Before, therefore, proceeding further with the Bill to authorize the punishment of whipping in certain cases, which is at present under the consideration of Government, in the Legislative Department, the Governor-General in Council is desirous of ascertaining what have been the practical results of the suspension of corporal punishment during the past year, and how far the opinions of the Local Governments have been affected thereby.

ORDERED, that a copy of this Resolution be forwarded to the Governments of Madras, Bombay, Bengal, North-Western Provinces, and, through the Foreign Office, to the Government of the Punjab, and to the Chief Commissioners of Oudh, Central Provinces, and British Burmah, with a request that a full Report may be furnished to this Government, on an early date, upon the practical working of the Penal Code, so far as the suspension of corporal punishment may have had any bearing thereon, and that the various Governments and Administrations will also favor the Governor-General in Council with an expression of their present opinion, as confirmed or modified by the experience of the past year, regarding the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be made applicable.

Circular, No. 2.

DATED CALCUTTA, THE 10TH JANUARY, 1863.

Mr. Justice Raikes.

With reference to the provisions of the Code of Criminal Procedure, the Court circulate for adoption the accompanying forms of warrants in supersession of those previously prescribed.

No. 1.

COURT OF SESSIONS.

Trial No. Calendar
Session
To

Magistrate of

Whereas at a General Jail Delivery of for the holden at on the in the year 186 day of the month of having been convicted of and sentenced by the Court of Session to suffer death by being hanged by the neck until dead, after which body unless claimed by relatives or friends to be either burnt or interred, and whereas the said sentence has been duly confirmed by order of the High Court of Judicature.

It is hereby ordered that execution of the said sentence be made and done upon the said on or before the of the month of and that you do return this Warrant to this Court with an endorsement attested by your Official Seal and Signature, certifying the manner in which the sentence has been executed, as commanded by Section 385 of the Code of Criminal Procedure. Herein fail not

Given under my hand and the Seal of this Court on the day of in the year 186

نمبر ۱

عدالت سیشن

نمبر مقدمہ کا کلندر بابت سیشن کے

پروانہ نام میں صاحب فوجداري

چونکہ اجلاس میں عدالت سیشن کے کہ واسطے تجویز مقدمات اور سزا پہنچانے قدیان محبوسخانہ واقع مقام علاقہ ضلع مقام میں تاریخ مہینا سنہ ۱۸۶۰ع کے ہوا تھا بعد تجویز مقدمہ جرم کا ثابت ہوا اور عدالت سیشن سے حکم قتل کا بطور پھانسي نسبت میں اوسکے صادر ہوا اور بعد مرنے اوسکے اگر ولي یا احباب اوسکے درخواست واسطے پانے لاش کے نکریں تو اوسکے لاشکو خواہ دفن کرنا یا جلانا چاہئے اور چونکہ

حکم مذکور حسب ضابطہ ہائی کورٹ سے منظور اور بحال ہوا ہی
اسواسطے حکم ہوتا ہی کہ حکم مذکورنسبت مین تاریخ مین مہینا
سنہ ۱۸۶۹ع ماقبل اوسکے مطابق حکم مندرجہ دفعہ ۳۸۵
دستورالعمل تعزیرات کے عمل مین لاکر کیفیت عمل مین لانے کےاوسکے
پشت پر اس پروانہ کے ساتھہ مہر و دستخط اپنے لکھہکر یہہ پروانہ کو
بجنسہ اسعدالت مین واپس کرو اسبات مین نہایت تاکید جانو ۔

مہر اور دستخط مین
عدالت سیشن کے لکھا گیا فقط

نং ১ আদালতের সেশন।

এলাকে

মেকদ্দমার কালেন্দর বাবতে সন

পরওয়ানা বনাম ফৌজদারীর সাহেব

জেলা মোকাম জেহেলখানার কয়েদীদিগের

মোকদ্দমা হায়ের তজবিজ করিবার ও তাহাদিগকে শাস্তি দিবার

নিমিত্তে সালের মাসের তারিখ সেশন

আদালতের সাহেবের বৈঠকেতে মোকদ্দমার তজবিজ হইয়া

অপরাধি

সাবুদ হইয়াছে এমতে দওরার আদালতের আজ্ঞাক্রমে
প্রতি ফাঁসি দিয়া বধ করিবার হুকুম হইল আর এই হুকুম হইল যে তাহার
আত্মীয় অথবা বন্ধু তাহার মৃত শরীর লইবার নিমিত্তে দরখাস্ত না করিলে
মেজেষ্ট্রেট সাহেব তাহা জ্বালাইবার কি পুতিয়া রাখিবার হুকুম জারি করিবেন
আর ঐ হুকুম হাইকোর্ট অফ যুডিকেচর অর্থাৎ উচ্চ বিচারালয় কর্তৃক
বাহাল হইয়াছে একারণ লেখা যাইতেছে যে ঐ হুকুম

প্রতি শালের
মাসের তারিখে কিম্বা ইহার পূর্ব্বে ক্রিমিনেল প্রেসিডিউর অর্থাৎ
দণ্ডবিধির আইনের ৩৮৫ ধারার লিখিতানুসার মতে জারি করিয়া তাহার
কৈফিয়ত এই পরওয়ানার পৃষ্ঠে লিখিয়া মোহর ও আপন দস্তখত করিয়া
বরাবর এই পরওয়ানা অত্রাদালতে ফিরিয়া পাঠাইবেন ইহাতে অতি
তাকিদ জানিবেন। শালের
মাসের তারিখের সেশন আদালতের সাহেবের
দস্তখত ও মোহর লেখা গেল ইতি।

No. 2.

COURT OF SESSIONS.

Trial No.
Session

To

Magistrate of

Whereas at a General Jail Delivery of for the holden at on the day of the month of in the year 186 having been convicted of and sentenced by the Court of Session to it is hereby ordered that execution of the said sentence be made and done upon the said without delay, and that you do return this Warrant when completely executed, with an endorsement, attested by your Official Seal and Signature, certifying the manner in which the sentence has been carried into execution, as commanded by Section 385 of the Code of Criminal Procedure. Herein fail not

Given under my hand and the Seal of this Court, this day of in the year 186

نمبر

پروانہ نام میں صاحب فوجداری

چونکہ اجلاس میں عدالت سیشن کے کہ واسطے تجویز مقدمات اور سزا میں پہنچانے قیدیان محبوس خانہ واقع مقام پابت ضلع مقام میں تاریخ مہینا سنہ ۱۸۶ع ترتیب پایا تھا بعد تجویز مقدمہ کے جرم کا پرثابت ہوا اور عدالت سیشن سے حکم صادر ہوا تمکو چاہئے کہ حکم مذکور کو نسبت میں مطابق حکم مندرجہ دفعہ ۳۸۵ دستور العمل تعزیرات کے بلا توقف عمل میں لاو اور تمکو چاہئے کہ جسوقت اِس پروانہ کا حکم بالکل انجام ہوا لکھو پشت پر اِس پروانہ کے تصدیق حقیقت عمل میں لانا حکم مذکور کا اپنے مہر و دستخط سے لکھکر بجنسہ پروانہ ھذا کو واپس کرو اِسبات میں نہایت تاکید جانو فقط تاریخ میں مہینا سنہ ۱۸۶ع *

مہر اور دستخط سے*

سیشن عدالت کے لکھا گیا

নং ২

পরওয়ানা বনাম

সেশন ফৌজদারীর সাহেব
আদালতের সাহেবের বৈঠকেতে যে মোকদ্দমা হায়ের তজবিজ ও
সাজা দিবার কারণ কএদি আসামি সকলের মহবুস খানার মোকাম
বাবতে জেলা মোকাম
তারিখ মাহ
সন মজরিম হইয়াছিল
মোকদ্দমার তজবিজের পরগণা মজকুর
উপর সাবুদ হইল ইহাতে দওরার আদালতের আজ্ঞানুসারে
উপর
হুকুম হইল আর তোমার উচিত যে হুকুম মজকুরের উপর
দণ্ডবিধি আইনের ৩৮৫ ধারানুক্রমে হুকুম খাড়া ২
আমলে আনিবা আর ইহাকে উচিত যে যখন এ পরওয়ানার হুকুম সমুদয়
আঞ্জাম হইয়া থাকে তখন এ পরওয়ানার পৃষ্ঠে হুকুম মজকুর আমলে
আননের হকিকতের প্রমাণ্য আপন মোহর ও দস্তখতে লিখিয়া এ পরও-
য়ানাকে তৎস্বরূপ ফিরিয়া দেন এবিষয়ে অতি তাকিদ জানেন
তারিখ মাস
সন সেশন আদালতের মোহর ও দস্তখতে লেখা গেল
ইতি

No. 3.

COURT OF SESSIONS.

Trial No. of Calendar
Session
To

Magistrate of

Whereas at a General Jail Delivery of for the
holden at on the day of the month of
in the year 186 having been convicted of and
sentenced by Court of Session for imprisonment for a term of years
from and to pay a fine of Rupees

It is hereby ordered that execution of the said sentence be made and done upon the said without delay, as commanded by the Code of Criminal Procedure or other laws now in force, and that you do return this Warrant, when completely executed, with an endorsement attested by

your Official Seal and Signature, certifying the manner in which the sentence has been carried into execution. Herein fail not

. Given under my hand and the Seal of this Court, this day of in the year 186

عدالت سیشن

نمبر ۳

نمبر مقدمہ

بابت سیشن ماہ سنہ ۱۸۶ع مطابق

نمبر کلنڈر صاحب فوجداري سنہ ۱۸۶ع

پروانہ نام مین صاحب فوجداري ضلع کے

چونکہ اِجلاس مین عدالت سیشن کے کہ واسطے تجویز مقدمات اورسزا پہنچانے قدیان جیل خانہ واقع مقام

بابت ضلع کے مقام تاریخ مین

ترتیب پایا تھا بعد تجویز مقدمہ کے جرم

اوپر

ثابت ہوا اور عدالت سیشن سے حکم قید رہنے مدت

اور داخل کرنے جرمانہ مبلغ

صادر ہوا لہذا تمکو چاہئے کہ حکم مذکور نسبت مین مطابق حکم دستورالعمل تعزیرات یا دوسرے آئین مجاریہ کے بلا توقف عمل مین لاو اور تمکو چاہئے کہ جسوقت اِس پروانہ کا حکم سب انجام ہووے اُسوقت پشت پر اِس پروانہ کے تعمیل حکم مذکور کي کیفیت اپنے مہر و دستخط سے لکھکر اِس پروانہ کو بجنسہ واپس بھیجدو اِسبات مین بہت تاکید جانو * تاریخ ماہ سنہ ۱۸۶ع

مہر اور دستخط سے صاحب سیشن کے لکھا گیا

নং ৩ আদালতে সেশন।

মোকদ্দমার নম্বর বাবতে সেশন মাহে সন মোতাবেক

নম্বর কালেন্দর সাহেব ফৌজদারী বাবতে মাহে সন

পরওয়ানা বনাম মেস্তর জেলা ফৌজদারীর সাহেব

যেহেতু জেলা মোকাম জেহেলখানার কয়েদীদিগের

মোকদ্দমা হায়ের তজবিজ করিবার ও তাহাদিগকে শাস্তি দিবার কারণ
সালের মাসের তারিখে সেশন আদালতের
সাহেবের বৈঠকে মোকদ্দমার তজবিজ হইয়া

অপরাধী সাবুদ হইয়া দওরার আদালতের আজ্ঞাক্রমে সন
হইতে সন পর্য্যন্ত
কয়েদ থাকার ও টাকা জরিবানা দিবার হুকুম
তাহার উপর হইল অতএব তোমার
উচিত যে হুকুম মজকুর ফৌজদারী কার্য্য বিধি বা
অন্য কোন চলিত বিধি অনুসারে খাড়া ২ আমলে আনিবা আর তোমার
উচিত যে যখন এ পরওয়ানার হুকুম সমুদয় আঞ্জাম হইয়া যাইবে তখন
এ পরওয়ানার পৃষ্ঠে হুকুম মজকুর আমল আনয়নের কৈফিয়ত আপন
মোহর ও দস্তখতে লিখিয়া এ পরওয়ানা বজনিস ফিরিয়া দিবে এ বিষয়
অতি তাকিদ জানিবে তারিখ মাহ সন
সেশন আদালতের সাহেবের মোহর ও দস্তখতে লেখা গেল ইতি।

No. 4.

COURT OF SESSIONS.

Trial No. of Calendar
Session
To

Magistrate of

Whereas at a General Jail Delivery of for the
holden at on the day of the month of
in the year 186 charged with having been
tried, and sentence of acquittal having been passed upon the said

It is hereby ordered that the said be released, and that you do return this Warrant to me, with an endorsement, attested by your Official Seal and Signature, certifying the manner in which the sentence has been executed. Herein fail not

Given under my hand and
the Seal of this Court, this day of in the year 186

عدالت سیشن

نمبر ۴

مطابق نمبر کلکٹر

سیشن بابت ماہ

نمبر مقدمہ

پروانہ نام مین صاحب فوجداري کے

چونکہ اجلاس مین عدالت سیشن کے جو واسطے تجویز اور سزا مین

پہنچانے قیدیان محبوس خانہ واقع مقام

بابت ضلع کے مقام مین تاریخ مین مہینا سنہ ۱۸۶۴ع

ترتیب پایا تھا متہم مین بعد تجویز مقدمہ کے جرم مذکور اوسپر

ثابت نہوا اسلئے حکم خلاصي کا نسبت مین

جاري ہوا اسواسطے لکھا جاتا ہی کہ قید سے خلاص کرو اور تمکو

چاہئے کہ پشت پر اس پروانہ کے کیفیت تعمیل حکم مذکور کي مہر

و دستخط سے اپنے لکھہ کر اس پروانہ کو بجدسہ واپس کرو اسبات مین

نہایت تاکید جانو فقط

مہر و دستخط سے عدالت

سیشن کے لکھا گیا

নং ৪

আদালতে সেশন।

মোকদ্দমার নং সেশন বাং মাহ মোতাবেক

নং কালেন্দর পরওয়ানা বনাম ফৌজদারীর সাহেব

যেহেতু জেলা মোকাম জেহেলখানার কয়েদীদিগের

মোকদ্দমা হায়ের তজবিজ করিবার ও তাহাদিগকে শাস্তি দিবার নিমিত্তে

সালের মাসের তারিখে সেশন

আদালতের সাহেবের বৈঠকে মোকদ্দমার তজবিজ হইয়া

যাহার উপর

তহমত স্থির মোকদ্দমা তজবিজের পর তকসীর মজকুর

তাহার উপর সাবুদ হইল না

একারণ খালাসের হুকুম

উপর হইল অতএব

লেখা যাইতেছে

কে কয়েদ হইতে খালাস করিবা আর তোমার উচিত যে এ পরওয়ানার পৃষ্ঠে হুকুম মজকুর আমল আননের কৈফিয়ত আপন মোহর ও দস্তখতে লিখিয়া এ পরওয়ানাকে ফিরিয়া দিবে এ বিষয় অতি তাকিদ জানিবে।

তারিখ মাস সন

শেসন আদালতের মোহর ও দস্তখতে লেখা গেল ইতি।

Circular, No. 3.

DATED CALCUTTA, THE 10TH JANUARY, 1863.

Mr. Justice Raikes.

The Court are pleased to direct that the form of Calendar hereunto annexed, be substituted for that prescribed by Circular Order No. 46, dated the 10th July 1857.

Calendar of persons committed or held to Bail by the ——— Magistrate of ——— to take their trial before the Sessions Court of Zillah ——— in ——— 186 .

1	2	3	4	5	6	7	8	9	10	11	12	13
		Detail of persons committed.			Abstract of charge.	Witnesses for Prosecution.				Witnesses for defence.		
Date of Commitment and name of Committing Officer.	Number of Calendar for the year.	Number.	Name, Father's name, Age, and Residence.	Section of Penal Code applicable.	Offence charged and date of occurrence.	Number.	Name and date of deposition.	Abstract of facts spoken to by the Witnesses.	Abstract of enquiry and grounds of commitment.	Number.	Name of Witness.	Nature of evidence.

(This form is printed for use on large (Consultation Size) Foolscap.)

Circular, No. 4.

DATED CALCUTTA, THE 26TH JANUARY, 1863.

Mr. Justice Raikes.

Your particular attention is requested to the notification of Government, No. 183, dated the 8th instant, published at page 43 of the *Calcutta Gazette*, dated the 10th idem, to the following effect:—

No. 183.

NOTIFICATION.—Under the provisions of Section XXXIII. of Act X. of 1862, the Governor-General in Council is pleased to exempt from Stamp Duty copies of final sentences or orders passed by Criminal Courts, which parties desirous of appealing from such sentences or orders are required by Section 415 of the Code of Criminal Procedure to file with their petition of appeal, provided that the party, who is desirous of appealing, is in confinement under the operation of the sentence or order at the time that he applies for a copy of the same.

Circular, No. 5.

DATED CALCUTTA, THE 6TH FEBRUARY, 1863.

Mr. Justice Raikes.

The Court are pleased to adopt the following Circular issued on the 20th December last by the Western Court:—

"The Court are pleased to direct that the Sessions Judges, in all cases in which they may convict of culpable homicide not amounting to murder, shall invariably mention in their remarks on the trial, within which of the exceptions noted under Section 300 of the Indian Penal Code the culpable homicide was held to come, so as not to amount to murder."

"*Culpable Homicide not amounting to Murder.*—In reference to the distinctive penal provisions contained in Section 304, as

* Penalty, transportation for life, or imprisonment of either description for a term which may extend to 10 years and fine.

† Penalty, imprisonment of either description for a term which may extend to 10 years, or fine, or both.

noted marginally, Sessions Judges will invariably record their opinion, whether the act, by which the death was caused, was done with the intention of causing death,* or of causing such bodily injury as was likely to cause death;* or with the knowledge that it was likely to cause death, but without any intention to cause death, or to cause such bodily injury as was likely to cause death."†

Circular, No. 6.

Cancelled by Circular Order, No. 6, dated 18th July, 1867.

Circular, No. 7.

DATED CALCUTTA, THE 11TH MARCH, 1863.

Forwards, for information and to complete the series of Circulars, a copy of letter, No. 274, from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Sessions Judges of 24-Pergunnahs, Nuddea, Hooghly, East Burdwan, Dacca, Moorshedabad, Patna, and the Judicial Commissioner of Assam, dated Calcutta, the 11th March, 1863.

(Copy.)

Mr Justice Raikes.

The Court are pleased to direct that, in submitting your Statements, Nos. 4 and 6 of Jail Delivery, you will in each case note your own opinion regarding the verdict delivered by the Jury, stating whether it has your concurrence, and whether you think that the evidence in the case warranted the particular finding.

Circular, No. 8.

DATED THE 14TH APRIL, 1863.

Forwards a copy of letter, No. 2191, from the Secretary to the Government of Bengal, to the Registrar of the High Court, dated Fort William, the 6th April, 1863, with a request that the Statistical Return, required by the Government of India, may be submitted with the least possible delay.

(Copy.)

I am directed by the Lieutenant-Governor to transmit herewith a copy of a further Resolution, No. 1948, dated the 23rd ultimo, recorded by the Government of India, in the Home Department, and to request that the Court will be so good as, when forwarding the report regarding the practical working of the Penal Code in respect to the suppression of corporal punishment, asked for in my predecessor's letter, No. 5829, of the 31st December last, to add a Statistical Return of the nature referred to in the present Resolution.

Extract from the Proceedings of the Hon'ble the President in Council, in the Home Department, No. 1948, under date the 23rd March, 1863.

Read the following extract of a letter from the Inspector-General of Police in India, No. 100, dated 29th November, 1862, reporting on Mr. Yule's scheme for the reduction of Police in Oude.

Para. 16.—Before passing on to the Municipal Police, I would ask permission to say a few words on the subject of Jails generally. Mr. Yule has stated in the 7th paragraph of his letter that it must be noted, since the introduction of the new Penal Code that the number of prisoners has been steadily increasing. I fear this is the case to an alarming extent all over India.

Ordered,—That the above extract be forwarded in continuation of Resolution, No. 7312, dated 20th December last, to the Governments of Madras, Bombay, Bengal, North-Western Provinces, and, through the Foreign Department, to the Government of Punjab, and to the Chief Commissioners of Oude, Central Provinces, and British Burmah, with a request that, together with the Report therein called for, a Statistical Return may be submitted, shewing in tabular form the number of convicts sentenced in each month of the past year to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging.

Circular, No. 9.

DATED CALCUTTA, THE 16TH APRIL, 1863.

The Chief Justice.
Mr. Justice Raikes.

In circulating for information the annexed copy of a letter addressed to the Magistrate of Jessore, the Court are pleased to draw the attention of all Criminal Authorities to explanatory note No. 2, at the commencement of the Schedule attached to the Code of Criminal Procedure. From this note and the sections thereby referred to, it will be observed that the entries in Column 5 of the said Schedule are imperative on Magistrates, if there appear to be reasonable grounds for believing that the persons accused of any offence under the Penal Code are guilty of the crime imputed to them, but Sessions Judges should bear in mind Section 436 of the Code of Criminal Procedure, under which it is discretionary with them to admit to bail any person accused of any crime.

2. This power, the Court expect, will be used with great caution.

Copy of letter, No. 413, *dated Calcutta, the* 16*th April*, 1863.

The Chief Justice.
Mr. Justice Raikes.

In reply to your letter, No. 259 of the 10th July, 1862, I am directed to inform you that the Court have ascertained from the Deputy Secretary to the Government of India, in the Legislative Department, that the proper entry in Column 5 of the Schedule to the Code of Criminal Procedure opposite to Section 118 is "*not* "*bailable.*" You are therefore requested to have amended whatever copies of the Code of Criminal Procedure there may be in use among your subordinates.

Circular, No. 10.

DATED CALCUTTA, THE 16TH APRIL, 1863.

Forwards, for information and guidance, a copy of a letter, No. 420, *from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Magistrate of Sylhet, dated Calcutta, the* 16*th April*, 1863.

The Chief Justice.
Mr. Justice Raikes.

Having laid before the Court your letter, No. 213, dated the 3rd instant, in which you request an expression of their opinion as to whether possession can be given under Section 318 of the Code of Criminal Procedure to the claimant of a share in the jummah of an *ijmalee* property, I am directed to state that, as the dispute is for the right to receive rent in a certain proportion, and not for possession of land or the produce thereof, Section 318 of Act XXV. of 1861 is no more applicable to the case you mention than Act IV. of 1840 would have been, were it still in force. The proper procedure is that pointed out by Section 26 of Regulation V. of 1812, as modified by Regulation V. of 1827, and steps to enforce that procedure should be adopted.

2. I am to remind you that any reference you have to make to the Court, should be addressed through the Judge of the district.

(*Note.*—The draft of the New Code of Criminal Procedure proposes to alter this.)

Circular, No. 10A.

DATED CALCUTTA, THE 18TH APRIL, 1863.

Forwards, for the information of the Criminal Authorities, copies of the following letters.

No. 427*A*, *from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Magistrate of Mymensing, dated Calcutta, the* 18*th April*, 1863.

The Chief Justice.
Mr. Justice Trevor,
" " Morgan.
" " L. S. Jackson.

With reference to the correspondence between you and the Sessions Judge submitted under cover of your Memo. No. 296 of the 8th August last, relating to a case in which the accused were charged with "knowingly giving false evidence," and in which the commitment was quashed by the Sessions Judge, I am directed to observe as follows.

2. It does not appear to the Court how the charge was framed. It ought to have contained two heads under Section 242 of the Code of Criminal Procedure, and framed in accordance with the model forms laid down in Section 243 of the same Code, one charging the first statement to be false, and the other charging the second statement to be false. The Court are of opinion that, if there is evidence to shew which statement was false, that evidence ought to be sent up to the Sessions Court, as in the case put by you of a witness stating on one day that he was an eye-witness to a murder, and on the next that he did not see the murder at all. If it could be proved that at the time when the prisoner made the first statement he knew that the person alleged to have been murdered was living, the evidence should be sent up to prove that the first statement was the false one. Upon the trial of a case of two contradictory statements, if the Judge or Jury cannot upon the evidence say, which statement was false, there should be a special finding, according to Clause 5, Section 382 of the Code of Criminal Procedure, provided the evidence satisfies the Judge or Jury that the prisoner knew that one of the statements was false, &c., at the time when he made it. In that case the prisoner would be liable, by virtue of Section 72 of the Penal Code, to be punished under Section 193 of that Code.

This ruling, I am to add, is not at variance with the ruling contained in para. 2 of the letter of the late Sudder Court, No. 364 of 12th May, 1862, to the address of the Officiating Additional Sessions Judge of 24-Pergunnahs, and circulated, under cover

of Circular Memo. No. 12 of the same date. This latter ruling was made on a question as to whether a person, who gives in a preliminary enquiry before a Magistrate, and before the Court of Session, contradictory depositions, commits the offence defined in Section 191 of the Penal Code. No question was then before the Court as to an alternative finding.

No. 427B, from the Registrar of the High Court of Judicature at Fort William in Bengal, to the Sessions Judge of Mymensing, dated Calcutta, the 18th April, 1863.

The Chief Justice.
Mr. Justice Trevor.
" " Morgan.
" " L. S. Jackson.

In forwarding for your information a copy of my letter No. 427A of this day's date, I am directed to observe that you had no power to cancel the commitment referred to therein, as, if the charge was not framed so as to meet the case, you should have amended it under the power vested in you by Section 244 of the Code of Criminal Procedure.

I am also to state that you were wrong in refusing to forward the Magistrate's reference to this Court in a matter involving such important questions under the Penal Code and Code of Criminal Procedure.

Circular, No. 11.

DATED CALCUTTA, THE 22ND APRIL, 1863.

Mr. Justice Raikes.

In continuation of the *Circular of the 31st of December 1861, new Forms of Periodical Criminal Statements are herewith circulated, containing further alterations which it has been deemed requisite to make in order that they should more fully meet the requirements of the Penal and Criminal Procedure Codes.

---

* See Circular Order, No 18, dated 15th September, 1864.

MAGISTRATE'S FORMS.

Nos. 1 *and* 2, *Part* 1. To distinguish the number of persons discharged under Section 250 of the Criminal Procedure Code from the number acquitted under Section 255, a column has been added to the Return under a general head "acquitted."—*Vide* columns 14 and 15.*

---

* CIRCULAR, No. 19.

Dated Calcutta, the 31*st December*, 1861, *is here produced for easy reference.*

H. T. Raikes,
C. B. Trevor,
G. Loch,
H. V. Bayley,
C. Steer,
} Esquires.

In continuation of Circular, No. 18, dated the 12th instant, and with reference to the Penal Code, the Code of Criminal Procedure, and to the report of the "Forms Committee" to the Government of Bengal, dated August 19th, 1861, I am directed to forward to you the accompanying lists A and B of the forms and statements that are at present submitted to the Court and that are to be continued and discontinued respectively from January 1st, 1862. I am also to point out to you any alterations that have been made in the statements alluded to in the former list in consequence of the introduction of the Codes.

2. Copies of the lists of statements recommended by the Forms Committee for retention and discontinuation are herewith forwarded, and you will perceive that the statements noted in the margin, have been retained by the Court, notwithstanding the opinion of the Committee, as it has, on consideration, been thought advisable and necessary to do so. The returns containing lists of local statements, registers, &c., in use in the different offices in the mofussil, are now being gradually analysed, and a uniform set will be eventually introduced throughout the courts; but as there is an immense mass of such statements, &c., that vary in almost every district, this process will necessarily take up a great deal of time, which can only be devoted to the work at intervals. For the present, then, such forms, statements, and registers as are now in use in and between your court and those of your subordinates, and are not entered in the annexed list B, may be used as heretofore. But you should, of course, discontinue such of them as are not considered by the Forms Committee to be required.

Statement of Criminal trials referred to the Nizamut Adawlut.

Statement of Criminal trials called for by the Nizamut Adawlut.

3. Specimens of the forms in list A are forwarded under a separate cover; and your attention is particularly requested to the following explanations and remarks in reference to them. You will be so good as to indent, in the usual manner, for forms similar to the specimens now forwarded to you, and to use no others.

4. MAGISTRATE'S STATEMENTS.

No. 1, (*Quarterly and Annual*).—*Part* 1 of this return has been altered. The descriptions of crimes that have hitherto been entered in Column 1, have not been inserted in the new form, as most criminal offences appear under entirely new names in the Penal Code. The entries will, therefore, have to be made in your office, and will be regulated by the annexed schedule of offences. Such general specifications as include several offences of the same nature, but varied in degree and character, should have inserted opposite to them the section or sections of the Penal Code applicable to them. Thus the general specification "6 Dacoity, other cases," may include cases of—

No. 1, *Part* 6. As a Magistrate cannot now award a sentence of three years' imprisonment, the new form does not

---

(1) Simple Dacoity under Section 395,
(2) Preparation to commit Dacoity under Section 399,
(3) Belonging to a gang of Dacoits under Section 400, and
(4) Being one of a number assembled for the purpose of committing Dacoity under Section 402,—

and the entry would therefore be,

"6 Dacoity, other cases," (Sections 395, 399, 400, and 402),

or such of those Sections as are applicable to the cases that have occurred.

In all other respects this part is the same as the corresponding return now in use, except that another Column (20) has been added to show cases of recognizance.

Parts 2 *to* 8.—The alterations are, that in Part 3, the entry of item 5 should be regulated by Section 152 of Act XXV. of 1861, instead of the old law and Circular, which are thereby repealed, and also that a Column ("9 Flogged") in Part 6 is omitted.

Parts 9 *and* 10 of the old have been omitted in the new form: the former, because the law (Act III. of 1841), the operation of which it is intended to show, has been repealed; and the latter, because, though the law (Act V. of 1844), the operation of which it is intended to exhibit, is still in force, a case under it is very rare, and it is enough to enter a case when it does occur under the general specification, No. 72 of the Schedule.

No. 2, (*Quarterly and Annual*) *Part* 1.—This return will now include a detailed specification or description—*first*, of all "attempts," and *next*, of the "other offences" not included in the specifications under the Penal Code and Code of Criminal Procedure.—*Vide* Headings 70 and 71 of the Schedule.

Part 2 is the same as part 3 of the old form, and will show the attendance of witnesses.

Part 3 is the same as part 4 of the old form, and will exhibit the operation of Section 301 of the Criminal Procedure Code.

Part 4 is the same as part 6 of the old form, and will contain details of cases of recognizance to keep the peace, under Sections 288 to 290 of the Criminal Procedure Code.

No. 3, (*Quarterly and Annual.*)—This return corresponds with No. 4 of the old form, and will exhibit the operation of Sections 318 to 320 of the Criminal Procedure Code.

No. 4, (*Quarterly and Annual*).—This return corresponds with No. 6 of the old form, and will contain an abstract of every description of Criminal business performed by Magisterial Authorities.

No. 5, (*Quarterly and Annual*).—This return corresponds with No. 9 of the old form, and will exhibit the appellate action of the Magistrate's Court over his subordinates.

Remarks, &c.—Remarks and explanations will be made as heretofore on the back of the Magistrate's Returns Nos. 1 to 5, in the place headed "Remarks."

Memorandum of Officers employed.—The Memorandum of "Officers employed" has been transferred from the commencement of No. 1, Part 1, to the place headed "Remarks," and the form altered.

No. 6, (*Annual.*)—This return is the same as No. 8 in the old form, and will show the duration of cases before the Magisterial authorities.

5. SESSIONS' STATEMENTS.

No. 1, (*Monthly and Annual*): *Part* 1.—This form is the same in all respects as the corresponding one hitherto in use, except that an additional Column (25) is added to distinguish cases of recognizance from the other pending cases

contain a column corresponding with column 1 of the old form.

---

at the end of the period to which the return may relate; and the entries in Column 1, will, as in Part 1 of the Magistrate's Statement, No. 1, be regulated by the annexed Schedule of offences.

Parts 2 *and* 3 are also slightly altered to suit the altered state of the law, and are intended to exhibit respectively details of pending cases and of the sentences passed by the Sessions Court.

No. 2, (*Monthly and Annual*).—This return is the same in all respects as the corresponding form, No. 5, hitherto in use, and is an abstract of No. 1, Part 1.

The information supplied in the letter (now discontinued) covering the Sessions Monthly Returns should be accurately noted in the Memorandum; at the side of Sessions Statement, No. 2, a line being drawn through the denominations of the statements that are not submitted. Care should also be taken to make the number of days in the first part of the Memorandum, correspond with the number shewn in Memorandum D of the Civil Statement, No. 1, Part 1.

No. 3, (*Monthly and Annual*).—This return corresponds with the present form of Statement, No. 4, except that the portion intended for the entry of *appeals* against orders in cases of dispossession is omitted, (these orders being, under the new law, final); and is intended to show the appellate action of the Sessions Court over the Magisterial Courts of the district. In filling up this return, both the name and official designation of each and every officer concerned should be given in Column 2, and the greatest number of days for which any undecided appeal has been pending should be invariably stated in Columns 10 and 18, instead of leaving them blank, as some officers are in the habit of doing.

You will observe that a line has been drawn across the middle of the statement for a total. This is intended to provide for a second district when there are two under the Sessions Judge; but where there is only one, the centre total line and the grand total one, at the bottom, should be struck out.

Nos. 4 to 8, (*Monthly*).—These Statements correspond with Nos. 6 to 10 of the forms in use, and are detailed below:—

No. 4.—Statement of prisoners punished without reference to the Nizamut Adawlut.

No. 5.—Register of Criminal Trials referred to the Nizamut Adawlut.

No. 6.—Statement of prisoners acquitted by the Sessions Judge.

No. 7.—Register of Criminal Trials called for by the Nizamut Adawlut.

No. 8.—Calendar of trials postponed.

Nos. 4 and 6 should contain a *brief* account or narrative of the offence, the finding of the jury, a short summary of the grounds of conviction, and the reasons which may influence the measure of punishment to be awarded; all *lengthy expositions* of the evidence being avoided. At present some of the Sessions Judges record the entire evidence at great length in the old returns Nos. 6 and 8 (corresponding with the Nos. 4 and 6 now alluded to), which is quite unnecessary.

No. 8 is a very important return; and particular care should be taken to supply in it every information it is intended to exhibit by filling up every column. At present very few Sessions Judges and other Judicial Authorities in a similar position fill up this return correctly and completely, though the only columns in which there is the least difficulty in doing it, are those shewing the dates proposed by the Magistrate, and fixed by the Sessions Judge for a trial; and this difficulty only exists when the trial is not to be held at the head-quarters of the Sessions Judge, but on the next occasion that the latter authority goes on circuit to out-stations. In such cases, the Sessions Judge

No. 4. In the new form of this statement, there has been an alteration made in columns 14 and 15, which will in future

---

will, nevertheless, be so good as to fix, as nearly as possible, the dates on which the trials will take place, as it is necessary that the Sudder Court should be enabled to see whether Sessions are held with regularity and at moderate intervals.

No. 9, (*Annual.*)—This return corresponds with the present return No. 12, and is intended to show the duration of cases in the Sessions Court.

GENERAL REMARKS.

6. In Statements showing the work of officers, when more than one officer presides in any court during the period to which the return relates, the name and work of each should be invariably given, with the dates, separately and distinctly; and similarly, when an office has been vacant during any portion of the period, the fact should be stated, with the dates, in a marginal note. When only one officer presides, his name should, nevertheless, be invariably entered in addition to his official designation, and the name of the station where he is employed.

7. It is of great importance to the supervising authorities that the returns of the subordinate courts should be both accurately prepared and punctually submitted by the appointed dates. You are, therefore, requested to assist the Court in the performance of their duty by attending carefully to these points, and thus prevent the necessity for constant references either as regards errors or delay in the submission of the different statements.

8. The most ordinary attention to his duty on the part of a head clerk of an office, will ensure that the number of cases brought forward in a statement submitted, shall correspond with the number shown to be pending in the previous one, or if a discrepancy is unavoidable, that the cause of it shall be explained in a foot or marginal note; and yet references, on such points as these, are constantly necessary.

9. The dates on which the different statements should be received in the Register's office are noted in the margin, though later dates are always accepted in the case of distant provinces, which as Assam, Tenasserim, and Martaban, and also, in moderation, as regards the outlying Districts in the Regulation Provinces. The Court are willing to make an allowance for delay on the first introduction of a new statement, as the return of statements to subordinates for correction cannot, under such circumstances, be avoided; but after the statement for one period has been submitted, excuses for errors and omissions will not easily be accepted. The Sessions Judge should fix on a date for the despatch of statements from his office which will ensure their reaching the Presidency by the appointed date; he should also fix on another date for the receipt in his office of the returns of his subordinates in such time as will enable him to make his despatch on the appointed day; and he should invariably report in a note in the statement every instance in which the return of a subordinate has not been received by him in time, or has been returned for correction. Allowance will again be made, if, for instance, there is delay in the actual course of transmission of a statement from an out-station; and for this purpose, the date of despatch should be carefully noted by the subordinate authorities, who should invariably submit an explanation whenever it is evident that their returns will not be in time. But they must distinctly understand that no excuse will be accepted if a statement is retained in the office of a subordinate court beyond the 1st of the month succeeding the period to

The *Monthly* and *Quarterly* Statements on the 15th of the month following the month or quarter to which they relate.

The *Annual* ditto on the 31st of January of the year following that to which they relate.

show the number of cases referred by each Subordinate Magistrate to the Magistrate under the provisions of Sections 276 and 277 of the Code of Criminal Procedure.

---

which the statement refers, as a whole day is quite sufficient for its preparation, if it is, as it ought to be, more than half prepared before the close of that period.

10. After this notice, every instance of carelessness or unpunctuality will be duly noted in this office; and if the instances are serious or frequent, it will be the duty of the Court to bring the matter to the notice of the Lieutenant-Governor.

A.

LIST OF STATEMENTS TO BE RETAINED.

Criminal.

Sessions Judges.	
1.—Statement of persons brought to trial, convicted, &c., and of appeals preferred from the orders of the Magisterial authorities, Nos. 1, 2, and 3	Monthly and Annual.
2.—Abstract Statement of prisoners punished without reference to the Nizamut Adawlut, No. 6, now No. 4	Monthly.
3.—Register of Criminal Trials referred to the Nizamut Adawlut, No. 7, now No. 5	Ditto.
4.—Abstract Statement of prisoners acquitted by the Sessions Judge, No. 8, now No. 6	Ditto.
5.—Register of Criminal Trials called for by the Nizamut Adawlut, No 9, now No. 7	Ditto.
6.—Calendar of trials postponed by the Sessions Judge, No. 10, now No. 8	Ditto.
7.—Statement of the average duration of cases in the Sessions Court, No. 12, now No. 9	Annual.
Magistrates.	
8.—Statement showing the number of crimes committed, and the number of persons under trial, convicted, &c., by the Magisterial authorities, Nos. 1 to 5	Quarterly and Annual.
9.—Statement of the average duration of cases before the Magisterial Authorities, No. 8, now No. 6	Annual.
Special.	
10.—State of the Criminal files—(*vide* para. 9 of Circular Order, No. 11 of 1st December, 1854), No. 1	Monthly.
11.—Statement of the average duration of cases referred to the Nizamut Adawlut, No. 11, now No. 2	Annual.
12.—Statement shewing the number of persons apprehended and brought to trial, and the result of the proceedings, No. 13, now No. 3	Annual.

B.

LIST OF STATEMENTS, &c., TO BE DISCONTINUED.

Criminal.

1.—Statement of persons confined in the Jail on requisition of security for good conduct	Annual.
2.—Statement of persons brought to trial, convicted, &c.,	Ditto.
3.—Letter reporting Sessions' operations	Monthly.

A Form of Register of Fines (numbered 7) has been substituted for the annual Form under Act XVI. of 1850,

---

Schedule of Offences under Acts XLV. of 1860 *and XXV. of* 1861.

No.	Description of offences.	Sections of Penal Code applicable.
1	Murder	Sections 302 and 303.
2	Culpable Homicide	„ 304.
3	Thuggee, &c.	„ 311.
4	Dacoity. With Murder	„ 396.
5	Dacoity. With attempt to cause death or grievous hurt...	„ 397
6	Dacoity. Other cases	„ 395, 399, 400 & 402.
7	Robbery. With hurt	„ 394.
8	Robbery. Other cases	„ 392.
9	Theft. With aggravating circumstances ...	„ 382.
10	Theft. Other cases	„ 379 to 381 & 401.
11	Offences against the State	„ 121 to 130.
12	Offences relating to the Army and Navy	„ 131 to 140.
13	Extortion. With aggravating circumstances	„ 386 to 389.
14	Extortion. Other cases	„ 384 and 385.
15	Offences relating to Coin	„ 231 to 254.
16	Offences relating to Stamps	„ 255 to 263.
17	Abetment of Suicide	„ 305 and 306.
18	Forgery or uttering or possessing forged documents or papers	„ 465 to 471 and 474.
19	Counterfeiting or making or possessing a counterfeit seal, &c., for purposes of forgery	„ 472 to 476.
20	Rape	„ 376.
21	Unnatural Offences	„ 377.
22	Causing Miscarriage. Attended with aggravating circumstances	„ 312 to 315.
23	Causing Miscarriage. Other cases	„ 312.
24	Injury to unborn children	„ 316.
25	Exposure of Infants	„ 317.
26	Concealment of birth by secret disposal of the dead body, ...	„ 318.
27	Criminal breach of trust	„ 406 to 409.
28	Receiving or habitually dealing in stolen or plundered property	„ 411 to 414.
29	Kidnapping or forcible Abduction. With aggravating circumstances ...	„ 364-66-67.
30	Kidnapping or forcible Abduction. Other cases	„ 363-65-68 69.
31	Slavery	„ 370 and 371.
32	Buying or selling a minor for the purpose of prostitution	„ 372 and 373.
33	Forced labor	„ 374.
34	Hurt. With aggravating circumstances ...	„ 325 to 331 and 333.
35	Hurt. Other cases	„ 323-24-32 and 334 to 338.
36	*False evidence, or subornation, &c., of the same,* ...	„ 193 to 200.

which law is now repealed. It should be borne in mind that under Section 70, Penal Code, fines imposed "may be levied at any time within six years after the passing of the sentence,"

No.		*Description of offences.*	Sections of Penal Code applicable.
37	Mischief.	With aggravating circumstances ...	Sections 429 to 433 and 435 to 440,
38		Other cases	„ 426 to 428 and 434.
39	Criminal Trespass.*	Resulting in death or other grievous hurt	„ 459 and 460.
40		For commission of serious offences	„ 449, 450, 452, 455, 457 & 458.
41		Other cases	„ 447-48-51-53-54 56-61-62.
42	Offences against public tranquillity.	Unlawful assembly	„ 143 to 145, 149 to 151-57-58.
43		Rioting, &c., ...	„ 147-48-52 and 153 to 156.
44		Affray	„ 160.
45	Criminal force or assault		„ 352 to 358.
46	Wrongful confinement		„ 342 to 348.
47	Wrongful restraint		„ 341.
48	Fraudulent deeds and disposition of property		„ 421 to 424.
49	Offences against public justice		„ 201 to 229.
50	Contempt of lawful authority		„ 172 to 190.
51	Offences.	By public servants	„ 161 to 169.
52		Relating to public servants ..	„ 161, 170 & 171.
53	Criminal misappropriation of property		„ 403 and 404.
54	Cheating		„ 417 to 420.
55	Offences relating to weights and measures ...		„ 264 to 267.
56	Using a false trade or property mark, and knowingly selling property so marked		„ 482-86-87-88.
57	Counterfeiting, or making, or possessing a die, plate, or instrument for counterfeiting a trade or property mark		„ 483 to 485.
58	Fraudulently destroying or defacing a will or other document		„ 477.
59	Removing, destroying, &c., a trade or property mark with intent to cause injury ...		„ 489.
60	Criminal breach of contract of service ...		„ 490 to 492
61	Offences relating to marriage		„ 493 to 498.
62	Defamation		„ 500 to 502.
63	Offences relating to religion		„ 295 to 298.
64	Offences affecting public health		„ 269 to 278.
65	Offences affecting safety		„ 279 to 289.
66	Offences affecting convenience		„ 290 and 291.
67	Offences affecting decency or morals		„ 292 to 294.
68	Criminal intimidation Insult, or Annoyance.	Resulting in death or other grievous hurt	„ 506.
69		Other cases	„ 504 to 519.

* See for corrections, Circular Order, No. 19, dated 19th September, 1864.

so that Magistrates should abstain from striking off and thus losing sight of any fines that may, at any time, appear to be irrecoverable. In the column of remarks it should be stated whether the sum realized has been paid over under Section 44, Code of Criminal Procedure, to the complainant, or has been credited to Government.

Another form of quarterly statement (numbered 8), is also prescribed for the entry of cases in which solitary confinement may be awarded under Section 73 of the Penal Code.

SESSION FORMS.

No. 1. As under the new Codes no commitments can be cancelled, columns 11 and 12 of this Return have been expunged.

No. 2. For the same reason a new heading "Transportation, Imprisonment, or Fine," has been substituted for heading 6 of this Return.

Ib. A new heading (numbered 7) "Death" has also been added to this Return to meet the requirements of the new Codes.

Ib. In addition to the above, it has been found necessary for the preparation of the annual Resolution recorded by the Court, to obtain a detail of commitments similar to that of appeals. A sufficient space has accordingly been left for entry

---

70 Attempts ... . "
71 Other offences not included in the above specifications, such as—
(1) Abkaree Laws, breach of.
(2) Aliens, breach of laws relating to.
(3) Chowkeedaree cases under Regulation XXII. of 1816, and Act XV. of 1837.*
(3) Customs' Laws, breach of.
(5) Ferry Laws, breach of.
(6) Lotteries, breach of Law relating to.
(7) Post Office Laws, breach of.
(8) Printing Presses, breach of laws relating to.
(9) Railway Laws, breach of.
(10) Salt Laws, breach of.

* Should be "under Act XX. of 1856 and Act V. 1861" see Circular Order, No. 17, dated 9th September, 1864.

of the result of commitments made by each of the committing officers.

No. 3. The 2nd part of the Return has been altered for the insertion of appeals under Sections 163, 165, 295, and 296 of the Criminal Procedure Code, these being the only description of miscellaneous orders now appealable to the Sessions Court.

Nos. 5 *and* 7. These returns have been discontinued, as no longer required.

Nos. 6 *and* 8. These, in consequence of the discontinuance of Nos. 5 and 7, are now numbered 5 and 6.

A new annual Form (numbered 7) is prescribed for the entry of fines imposed under sentence of the Sessions Court. The observations made in a preceding para. for the guidance of Magistrates in preparing this Return for their Courts, are equally applicable to the Statements prescribed for Courts of Session.

Another annual Form (number 8), is prescribed for the entry of cases in which sentences of forfeiture of property under Section 62 of the Penal Code, may be passed.

A monthly Form (numbered 9), is also prescribed for the entry of cases in which solitary confinement may be awarded under Section 73 of the Penal Code.

Special Form.

No. 3. The description of crimes, hitherto entered in column 1, has not been inserted in the new Form. The entries of the headings should, therefore, be made when the statement is under preparation, and should be regulated by the schedule of offences annexed to the Court's Circular Order of 31st December, 1861, in like manner as is now done in the Magistrate's Statement, No. 1, Parts 1 and 2.

Circular, No. 12.

DATED CALCUTTA, THE 5TH JUNE, 1863.

Mr. Justice Raikes.

I am directed to request that you will, as soon after the close of every year as practicable, submit an annual statement of criminals sentenced to imprisonment and transportation, in the form prescribed in Circular, No. 10, dated 14th November last.

(See in continuation Circular Order, No. 12, dated 11th September, 1867.)

Circular, No. 13.

DATED CALCUTTA, THE 8TH JUNE, 1863.

Mr. Justice Raikes.

The attention of the Court has been drawn by Government to a letter from the Inspector-General of Jails, Lower Provinces, stating that he has frequently, during the last seven years, become acquainted with instances of irregularities respecting the filing and disposal of Warrants, and submitting a letter from the Sessions Judge of Behar, pointing out an instance of delay which has taken place on the part of the Officiating Joint Magistrate of the district in returning to him the Warrants of four prisoners who died in 1858 and 1859.

2. I am desired, under these circumstances, to call your particular attention to Circular Order, No. 34,* dated the 19th

---

* No. 34, DATED THE 19TH JUNE, 1804.

To the Courts of Circuit.

I am directed to inform you that it is the intention of the Nizamut Adawlut that all Warrants should be returned to the Court by which they are issued, after the complete execution of the sentence contained in them, with an endorsement, certifying the manner in which the sentence has been carried into execution.

In the case of a sentence both for corporal punishment and imprisonment, the carrying into execution of the former part of the sentence should be endorsed on the Warrant at the time of inflicting the punishment; but as the Warrant in this case cannot be considered to be completely executed until the prisoner has undergone the period of imprisonment adjudged against him, the

June, 1804, which directs how warrants are to be returned after execution of sentence.

Circular, No. 14.

Has been cancelled.

Circular, No. 15.

DATED CALCUTTA, THE 13TH JUNE, 1863.

Mr. Justice Raikes.

The Court do not consider that it is any longer necessary that Warrants for the execution of capital sentence should be submitted to them, as the Court think that the *Court* referred to in the latter portion of Section 385 of the Code of Criminal Procedure, is the Court of Sessions, and not the High Court.

2. Any instance in which a Magistrate may have executed such a sentence in an improper or careless manner, should, of course, be reported to the High Court.

Circular, No. 16.

Cancelled by Circular Order, No. 6, dated 18th July, 1867.

Circular, No. 17.

DATED CALCUTTA, THE 17TH JUNE, 1867.

The Chief Justice.
Mr. Justice Raikes.

The High Court of Judicature are pleased to direct that every Judge

---

Magistrate should retain the Warrant until the expiration of the term of imprisonment, or return it duly endorsed, should the prisoner die during the course of the term; or, in the event of his being removed to another Zillah, the Warrant should be transmitted to the Magistrate of the zillah, to whom the prisoner may be sent, with information that he is to return it duly endorsed to the Court of Circuit on the expiration of the sentence or death of the prisoner.

The Court accordingly desire that you will communicate the above remarks to the several Magistrates within your division for their information and guidance.

of every Court, including all Magisterial Officers, whose duty it is to administer the law as contained in the Indian Penal Code and Code of Criminal Procedure, shall from time to time report to his official superior any doubt which he shall entertain as to the construction which he shall put upon any part of those Codes in the course of cases which shall come before him.

2. These reports must not be made on mere speculative questions or pending trial or enquiry, but after the cases shall have been actually tried, or in cases of preliminary enquiry after the enquiry has been concluded. If the report be made by the Magistrate of the district, it shall be transmitted by him to the Judge. If it be made by any of the Magisterial Authorities subordinate to the Magistrate of the district, it shall be transmitted by him to the Judge with such remarks as he may think fit to make thereon. All reports which shall be submitted to the Judge, unless in the case of reports made by officers subordinate to the Magistrate of the district in which he shall consider the doubt to be obviously unreasonable, shall be transmitted to this Court, with such remarks as he may deem necessary, and also with such portions (if any) of the correspondence which shall have taken place on the subject, as he shall consider important to be considered by this Court. The Judge shall also forward the record of the case if he consider it necessary.

3. In order to make as complete as possible any suggestions for the alteration of or amendment of the law which the Court may see fit hereafter to make to the Legislature, they are pleased to direct that a similar report shall be made, and forwarded in like manner to this Court, regarding any point upon which doubts have heretofore been entertained by the Criminal Authorities in the course of any trial or preliminary enquiry, since the Penal Code became law, although prior to the promulgation of this Circular.

4. The Court are further pleased to direct that all references made under this Circular shall be in the Forms annexed.

Criminal Procedure Code.

Section of Criminal Procedure Code about which doubt is entertained.	Name of district and name and rank of Officer making the reference with No. of case on his file.	Abstract of doubtful point.	Opinion of Officer making the reference.	Remarks (if any) by the Magistrate of District, if transmitted through him.	Remarks (if any) by Sessions Judge.	Remarks by the Judges of the High Court.	Names of Judges of the High Court.

Penal Code.

1	2	3	4	5	6	7	8
Section of Penal Code about which doubt is entertained.	Name of district and Officer's name and rank by whom reference is made and No. of case on his file.	Abstract of doubtful point.	Opinion of Officer making reference.	Remarks (if any) by the Magistrate of the District if transmitted through him.	Remarks (if any) by Sessions Judge.	Remarks by the Judges of the High Court.	Names of Judges of the High Court.

(N. B.—The Court have recently decided not to answer these references.—They are only intended to be forwarded to the Legislature, if they contain any matter of importance.)

Circular, No. 18.

DATED CALCUTTA, THE 15TH JULY, 1863.

The Chief Justice.
Mr. Justice Raikes.

The Court have felt much inconvenience from the imperfect manner in which cases have been referred to them under Section 434, Act XXV. of 1861, which empowers Sessions Judges and Magistrates to call for and examine the records of Courts immediately subordinate to them, in order to satisfy themselves as to the proceedings of such Courts being regular, but without the power to alter any sentence or order of such Court, save on appeal.

2. They are accordingly pleased to direct that such references shall always be accompanied by the records of the case to which they relate and by an English letter commencing "under Section 434, Act XXV. of 1861, and Circular Order "of the High Court, dated 15th July, 1863, No. 18, I herewith "transmit the record of the case noted in the margin, to be "laid before the High Court, with the following report." There will then be stated—

1*st*.—A brief analysis of the case.

2*nd*.—The order of the Lower Court.

3*rd*.—In what particular portion of that order the Court, making the reference, considers an error on a point of law to exist.

4*th*.—The grounds upon which the order of the Lower Court should be reversed.

Unless there be any particular reason why delay should be avoided, the explanation of the Lower Court should be called for and accompany the reference.

3. The Court do not think it necessary to enter into any details of the particular occasions on which such references should be made to them, or to define what descriptions of grave irregularity of procedure, undue severity of punishment, &c., may give rise to a reference to them. It is deemed

sufficient to enjoin the exercise of a sound discretion in making these references to the Court, so that neither important errors and omissions may escape correction, nor the time of the Court be needlessly engrossed by matters not demanding their interference.

Circular, No. 19.

DATED CALCUTTA, THE 21ST JULY, 1863.

The Chief Justice.
Mr. Justice Raikes.

The Court having reason to believe that there is some considerable misapprehension among officers by whom the Criminal law is administered as to the liability of a party preferring a false charge of an offence within the terms of Section 211 of the Penal Code, when the charge is dismissed *before* the "accused person" is put on his defence—the following instructions are circulated for general information.

2. The person accused of making a false charge should not be put upon his defence before a *primâ facie* case is made out against him.

3. It is not necessary, however, that the person whom he accused, should have been put upon *his* defence.

4. A person may, for instance, be accused of murder or of any of the offences punishable under Section 377 of the Penal Code; the case may entirely break down, and the Magistrate may, according to Section 367* of the Code of Criminal Procedure, refuse to issue a warrant, or he may dismiss the complaint under Section 225 or 250 of that Code. The complainant in such a case would, if the accused were to prosecute him for instituting a false charge, and to establish against him the "intent to cause injury, knowing that there was no just or lawful ground for such complaint," be liable to the penalty prescribed by Section 211 of the Penal Code

* Should be "67"—See Circular Order, No. 6, dated 17th April, 1866.

5. There is, however, a wide distinction between the procedure necessary when a person is charged with an offence and that laid down under Section 270 of the Code of Criminal Procedure, which it would be well to note. Under the latter Section the complainant might by the order of dismissal, if his complaint were "frivolous and vexatious," be ordered to pay to the person against whom the charge was brought such amends not exceeding 50 Rupees, as the Magistrate might consider just and reasonable; but it would be necessary, in order to make him liable to the penalty incurred under Section 211 of the Penal Code for a false complaint, to hold a regular trial.

6. A Magistrate might, indeed, in the case last adverted to, proceed of his own motion under Section 68 of the Code of Criminal Procedure, without any complaint from the party aggrieved, but he would still be under the necessity of holding a trial, and, in the case of "a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards," of making a commitment to the Court of Session. He would not, of course, proceed under Section 68 of the Code of Criminal Procedure and take action of his own motion, unless he were perfectly satisfied that an offence under Section 211 of the Penal Code had been committed. In ordinary cases he would leave the person falsely accused to prefer a complaint; and such complaint could not be entertained without the sanction required by Section 169 of the Code of Criminal Procedure. Such sanction, though it may be accorded "at any time," should not ordinarily be granted until the proceedings based on the false complaint, have been concluded in favor of the "accused person."

7. Further, it should be borne in mind that a complainant is not liable to punishment under Section 211 of the Penal Code in *all* cases in which the prosecution fails, or in which the "accused person" is acquitted. *That* Section is applicable to those cases only in which the charge is "*falsely*" made "*with intent to cause injury, and with the knowledge that there*

"*is no just or lawful ground for such charge.*" Want of reasonable or probable cause may raise a presumption of such knowledge and intent; but a mere failure to obtain a conviction would not of itself be sufficient to warrant the presumption.

Circular, No. 1.

DATED CALCUTTA, THE 8TH JANUARY, 1864.

Mr. Justice Raikes.

In modification of Circular, No. 262,* dated the 12th January, 1838, of the late Sudder Court, the High Court are pleased to direct that, on an application being made by the Magistrate of the District to the Sessions Judge for a copy of any judgment delivered by him, the Judge should permit a copy to be made by any person whom the Magistrate may depute for that purpose.

The Court take this opportunity of reminding Magistrates and Committing Officers that such copies will be granted only for their information and guidance, and that they are not at liberty to cavil at the judgment of the Sessions Court, or enter into any discussion with the Judge upon its merits. The Court will not fail to notice any disregard of this warning.

---

* *New Number* 5, *dated the* 12*th January*, 1838.

A question having lately arisen as to the competency of a Session Judge to comply with the application of a Magistrate to be furnished with the original, or copies of the former Officer's proceedings in a trial committed to the Sessions, I am directed by the Court to inform you that if, in particular cases of the above description, any special grounds should exist rendering it desirable, in the opinion of the Magistrate, that he should see any part of the evidence taken before the Sessions Court, either to enable him to follow up his inquiries in the case, or for any other purpose connected with the administration of Criminal justice, or of the police of his district, he should state those grounds fully in a report to the Sessions Judge, who, on a consideration thereof, will determine on the propriety or otherwise of complying with the application, either in the former case, by transmitting, for the Magistrate's perusal, transcripts of the deposition required by that Officer, or by allowing an Officer from his Court to attend for the purpose of taking copies of the same.

Circular, No. 2.

DATED CALCUTTA, THE 8TH APRIL, 1864.

The Chief Justice.
Mr. Justice Raikes.
" " Trevor.
" " Loch.
" " Steer.
" " Norman.
" " Kemp.
" " Seton-Karr.
" " Sumboonath Pundit.
" " E. Jackson.

The Court deem it necessary to call the especial attention of all Criminal Authorities to the provisions of Act VI. of 1864, which has recently been passed by the Governor-General of India in Council, and received the assent of His Excellency the Governor-General on the 18th February last.

2. Section I. directs that, in addition to the punishments described in Section 53 of the Penal Code, offenders are also liable to whipping under the provisions of the said Code, and it has been declared, under the authority vested in the Lieutenant-Governor by Section X., that this punishment "shall, in the case of an adult" be inflicted on the breech, with a rattan* not exceeding half an inch in diameter. The Government further enjoins that "on all occasions precautions should be taken to prevent the blows from falling on any other part of the person."

3. Particular care should be taken in marking the distinction between Sections II., III., IV. By Section II. it is enacted that, for certain specified offences, whipping may be administered *in lieu* of any punishment to which the convict may, for any of those offences, be liable under the Indian Penal Code, whereas, by Section III. it is enacted that if he has been previously convicted under the Penal Code of any of those offences, and shall again be convicted of the *same* offence, he may be punished with whipping *in lieu* of, or *in addition* to, any other punishment to which he may for such offence be liable under that Code.

---

* Circular of the Government of Bengal to all Commissioners, No. 1329, dated 29th February, 1864.

4. By Section IV. however, it is enacted that, whoever, having been *previously* convicted of any of the offences specified in this Section of the Act, shall be *again* convicted of the *same* offence, may be punished with whipping *in addition* to any other punishment to which he may be liable under the Indian Penal Code.

5. The punishment of whipping under Section II. can be imposed only on conviction of any of the offences therein specified, if the offence have been committed subsequently to the 18th February 1864, the date on which Act VI. of 1864 became law.

6. It should be remarked that, under Sections III. and IV. both the convictions must be for the *same* offence, which must be one of the offences specified in Sections II. and IV. respectvely, in order to render the offender liable to whipping in lieu of, or in addition to, any other punishment, and that under Section IV., the punishment of whipping *cannot* be inflicted in lieu of any other punishment, but may be inflicted only in *addition* to such punishment. Sessions Judges should bear in mind that, under Section VII., no person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment *for more than five years*, can be punished with whipping.

7. Section V. provides for the whipping of juvenile offenders convicted of any offence which is not punishable by the Indian Penal Code with death. It should be observed that the punishment of whipping must, in such case, be administered only *in lieu of* any other punishment; that it may be inflicted for a first or any other offence; but that, as remarked in para. 5 with reference to offences falling under Section II., the offence must have been committed subsequently to the 18th Febrary last, the date of the passing of Act VI. of 1864. The whipping of juvenilos, as is by Section X. declared, shall be "inflicted in the way of school discipline with a light rattan."

8. Section VI. provides for exceptional cases not of general application.

9. Under Section VII. no female can be punished with whipping. The latter part of this Section, which would apply only to Sessions Judges, has already been noticed.

10. Section VIII. declares that no Officer, under the grade of a Subordinate Magistrate of 1st Class, shall pass a sentence of whipping, unless he shall have been expressly empowered by the Local Government to pass such a sentence.

11. Under Section IX. in cases in which a sentence of whipping is passed under Sections III. and IV. in *addition to imprisonment*, if the sentence be open to revision by appeal to a Superior Court, the whipping must not be inflicted until 15 days from the date of such sentence, or, if the appeal be preferred within that time, until the sentence be confirmed by the Superior Court, but if no appeal be preferred, it should be inflicted immediately on the expiry of the 15 days; or, in the case of an appeal, immediately on the receipt of the order of the Court confirming the sentence, if such order shall not be received within the 15 days.

12. With reference to Section 9 of Act VI. of 1864, the Court deem it expedient to point out that all sentences of whipping are appealable in the manner prescribed in Sections 408, 409, 412 of the Code of Criminal Procedure.

13. It has been already pointed out that the Lieutenant-Governor has, under the power vested in him by Section X., declared that the rattan, not exceeding half an inch in diameter, shall be employed in the whipping of adults, and that the punishment shall be inflicted on the breech. It, therefore, only remains to remark that the maximum of punishment is 30 stripes; that the whipping must be inflicted in the presence of a Justice of the Peace or a Magistrate of any grade; and that, unless the Court shall otherwise order, a Medical Officer must always be present.

14. In connection with this last provision of the Law, the Court would remind all Officers that the Governor-General in Council considers that the precaution of having a Medical Officer present at the time of the infliction of the punishment, should be observed in every instance when practicable.

15. Particular attention should be directed to Section XI., which prohibits the execution of a sentence of whipping when the offender is not in a fit state of health to undergo that punishment, or the infliction of whipping by instalments.

16. Section XII. prescribes the procedure in case in which *no part* of a sentence of whipping has been carried into execution for any of the reasons specified in Section XI.

17. The Court expect that great care and proper moderation will be exhibited by all Officers in exercising the powers vested in them by Act VI. of 1864; and that, after this full explanation of its provisions, no irregularities will occur in carrying them into practice.

Circular, No. 3.

DATED CALCUTTA, THE 28TH MARCH, 1864.

Mr. Justice Trevor.

His Honor the Lieutenant-Governor, under Section 10, Act VI. of 1864, has been pleased to direct that the punishment of whipping under that Act shall, in the case of an adult, be inflicted on the breech with a rattan not more than half an inch in diameter.

2. On all occasions every precaution should be taken to prevent the blows from falling upon any other part of the person.

3. The Governor-General in Council considers that the precaution of having a Medical Officer present at the time of the infliction of the punishment should be observed in every instance when practicable.

Circular, No. 4.

DATED CALCUTTA, THE 30TH MARCH, 1864.

Mr. Justice Raikes.
" " Trevor.
" " Loch,

The Court think it right to circulate the following Rule for the guidance of Magistrates.

2. When, during the investigation of a complaint under Chapter XV. of the Code of Criminal Procedure, it may appear to the Magistrate that a witness is giving false evidence, so that Criminal Proceedings against such witness are likely to be necessary, the Magistrate should, in that case, under Section 268, take down at least the evidence of the particular witness at length in the manner prescribed in Sections 195 (or 196) 199, and 200.

3. In issuing this order, the Court would not have it understood that a full record of the evidence in the Vernacular or any language is *necessary* in order to a conviction for perjury; but the precaution now enjoined will serve to obviate the doubts, which might often exist regarding the accuracy of the Magistrate's brief note of the evidence, where the commitment rested wholly or mainly on that note.

Circular, No. 5.

DATED CALCUTTA, THE 6TH MAY, 1864.

The Offg. Chief Justice.

It has been represented to the Court that Magistrates and Justices of the Peace, after making commitments to the High Court in its original criminal jurisdiction, do not promptly send the records of cases to the Clerk of the Crown, but frequently delay doing so until the commencement of the Sessions at which the cases are to be tried. Such a practice causes great inconvenience to all concerned, and deprives the Judge generally of the opportunity which he ought to have for looking over the depositions

of the witnesses before the Grand Jury is charged, and the case goes to trial. This Court is not aware of any reason for this delay in sending the record to the Clerk of the Crown, and, after this Circular, will not fail to notice with its displeasure any such delay on the part of any Magistrate or Justice of the Peace. The Court takes this opportunity of reminding Magistrates and Justices of the Peace that a copy of the warrant of commitment should always form part of the record which is sent to the Clerk of the Crown.

2. The Court also requests the particular attention of Magistrates and Justices of the Peace to Rule 3 of the Rules circulated for their guidance by Circular 85 of the Secretary to the Government of Bengal, dated the 27th July 1860, which requires that all witnesses should be bound, in the usual form, to attend at the Court-house on a day specified, which should be the *first day of the Sessions* for which the prisoner is committed, and which should be the next following Sessions after the commitment, if there is a sufficient interval of time between the commitment and the next Sessions; and if not, then to the next following Sessions. The dates fixed for the commencement of the Sessions during the current year are the following :—

CRIMINAL SESSIONS FOR 1864.

1st	Criminal Sessions.		Tuesday ...	19th January.
2nd	Do.	Do.	Thursday ...	10th March.
3rd	Do.	Do.	Monday ...	25th April.
4th	Do.	Do.	Friday ...	10th June.
5th	Do.	Do.	Monday ...	18th July.
6th	Do.	Do.	Wednesday ...	24th August.
7th	Do.	Do.	Monday ...	26th September.
8th	Do.	Do.	Tuesday ...	29th November.

3. In order to ensure uniformity, the depositions of witnesses should be invariably recorded on foolscap paper and in a legible handwriting, the lines not being too closely written.

4. The following heading should commence each deposition :—

The deposition of taken, under the solemn affirmation prescribed by Act V. of 1841, before me Justice of the Peace this day of

5. To save unnecessary labor, the Court think that it would be well if officers requiring such forms applied in the proper quarter for a supply of printed headings of this description.

6. The depositions should invariably be subscribed with the Memorandum required by Section 199 of the Code of Criminal Procedure, the facts always being, as by law required, in accordance with the Memorandum.

7. As a rule, cases, in which *primâ facie* it may appear that a person is charged with an offence for which he can be tried only by the High Court in its original jurisdiction, should be enquired into by Magisterial officers, who are competent to commit the accused; but if it happens, as sometimes it may, that a charge is entertained in the first instance by an officer who finds that he has no jurisdiction to proceed, and is therefore compelled to stay further proceedings, and refer the case to a competent officer, in such cases the evidence should be taken afresh by such competent officer; and as the proceedings held by the first officer do not constitute the legal basis of any subsequent commitment, they should not form part of the record submitted to the High Court, and should not be transmitted as part of the record to the Clerk of the Crown.

8. The Clerk of the Crown states that not unfrequently Justices apply to him for advice and direction on various points, as, for example, respecting the course of the investigation, the sufficiency of the evidence, the number of the witnesses to be sent down, the selecting of some, and other similar matters of detail. The Clerk of the Crown represents that generally he refers such applications to the Solicitor to Government for reply, that officer being able to obtain the opinion of the Law officers of the Government. The Court is of opinion that it would be better in such cases, where Justices required advice

or direction (except as to what merely concerned the office of Clerk of the Crown), that Magistrates should apply direct to the Solicitor to Government. The Clerk of the Crown has suggested that, at the examination of the prisoner, the officer, in whose charge the prisoner if committed will be sent down, should be present, in order that he may be able to prove the examination and signature of the prisoner to it, as in some cases this proof is required to establish the fact of British origin, on which the jurisdiction to commit and try depends. Much inconvenience is often occasioned to witnesses from the Mofussil, through their want of information as to the means of getting quarters, if they are poor and strangers, and as to the means of obtaining their expenses. They should be informed that the Commissioner of the Police of Calcutta has charge of these matters, and not the Clerk of the Crown.

Circular, No. 6.

DATED CALCUTTA, THE 16TH MAY, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Kemp.
" " Seton-Karr.
" " L. S. Jackson.
" " Sumboonath Pundit.
" " E. Jackson.

The Court, having become aware of the existence of a diversity of practice in the several Magisterial Courts subordinate to them, in regard to the preliminary examination of complainants before the issue of process in cases falling under Chapter XV. of the Code of Criminal Procedure, as well as in regard to the mode of conducting the examination of witnesses in Criminal cases of all descriptions, issue the following Rules, which they expect will be strictly observed in all respects.

2. On receiving a complaint, the Magistrate of the District, or Magistrate, who is authorized to receive such complaint without reference from the Magistrate of the District, may either examine the complaint in the manner prescribed by Section 66, Code of Criminal Procedure, and proceed under Section 67 to

issue a summons or warrant; or, if there be no sufficient ground for proceeding, at once dismiss the complaint; or he may at once make over the complaint to be enquired into or tried by any Magistrate subordinate to him. Such subordinate Magistrate should, in this latter case, proceed in the manner laid down by Sections 66 and 67, Code of Criminal Procedure. The Officer who examines the complainant should, in all cases, decide whether a summons or warrant should issue.

3. If the Magistrate of the District, or other Magistrate, who is authorized to receive complaints without reference from the Magistrate of the District, after examination of the complainant, order a summons or warrant to issue, he may direct the case to be tried by any Magistrate subordinate to him, competent to try it (Section 273, Code of Criminal Procedure.)

4. The Magistrate is bound to receive all complaints, whether they be preferred orally or in writing, but he is not bound to record a written complaint, after he has acted in the manner prescribed in the second paragraph of this letter.

5. The receipt of a written complaint shall not dispense with the subsequent examination of the complainant, and the reduction of that examination into writing, as required by Section 66 of the Code of Criminal Procedure.

6. As regards the examination of complainants, witnesses, or persons accused of the commission of any offence under enquiry or trial before a Criminal Court, the following Rules should be strictly observed in every case by Sessions Judges and Magistrates of every grade:—

RULES.

1. Every witness shall be examined *vivâ voce* in open Court in the presence of the Judge.

2. A Judge shall not be engaged in any other business whilst the examination of a witness is going on, or whilst any documentary evidence is being read.

3. If, after the examination of a witness has commenced, the Judge be compelled to attend to any other business, the examin-

ation of the witness shall be suspended as long as such other business is being attended to.

4. The examination of a witness shall not be interrupted for the purpose of enabling the Judge to attend to other business, unless such business be of an urgent nature.

5. If the evidence be not taken down by the Judge, he shall, at the time that the evidence is being given by the deponent, make a Memorandum in his own handwriting of the substance of what each witness deposes. Such Memorandum shall be written legibly in the Vernacular language of the Judge, or in English, at the option of the Judge, if he is sufficiently acquainted with that language, and it shall be signed by the Judge, and dated, and shall form part of the record, and be always sent up with the record to the Appellate Court in the event of an appeal.

6. If the Magistrate shall be prevented from making such Memorandum, he shall record his inability to do so, and the reason thereof. Press of business will not, unless under most exceptional circumstances, be accepted as a reason for the inability of any Officer to record his Memorandum.

7. It shall be the duty of every Appellate Court, subordinate to the High Court, to examine the Memorandum of the evidence made by the Subordinate Court, and to report to the High Court, in cases in which it shall appear that the above Rules have not been strictly and properly attended to.

8. The Memorandum made by a Magistrate shall invariably form part of the record, and, in cases tried by a Sessions Judge, the Memorandum written by that Officer, shall also be attached to the record.

9. The evidence of every witness shall invariably be recorded in the presence of the Officer who may decide the case, except in the cases provided for by Section 277 of the Code of Criminal Procedure, in which the re-calling and re-examination of the witnesses is optional with the superior Magistrates.

10. After the examination of witnesses has commenced, the trial or preliminary enquiry under Chapter XII Code of Cri-

minal Procedure should be proceeded with until all the witnesses in attendance have been examined, those for the prosecution being first examined; and, if the witness be detained for a longer period than two days, the Magistrate should record a Memorandum, stating the reasons of such detention.

11. The *examination of the accused should be conducted strictly in the manner directed by Section 205, Code of Criminal Procedure.

12. An adjournment of the hearing of the case shall not be ordered, except for the absence of a witness or any other reasonable cause. In such a case a written order signed by the Magistrate shall be recorded, stating the reason for this adjournment, and the date to which the hearing is adjourned.

13. When it is deemed necessary to adjourn the hearing of a case, the adjournment shall be for as short a time as possible, and no person accused of any offence shall be remanded for any period exceeding fifteen days (Section 224.)

14. Every Sessions Judge and Magistrate shall sit daily and punctually at the hour appointed for the opening of his Court, unless prevented by circumstances, which are to be recorded in the Proceedings of the Court.

(See Circular Order, No. 19, dated 17th September, 1864.)

Circular, No. 7.

DATED CALCUTTA, THE 2ND JUNE, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.
" " Kemp.
" " Seton-Karr.

With reference to the absence of any express provision in the Penal Code and Criminal Procedure Code for the cancellation of a commitment by the Sessions Judge, the Court consider it

* See also Circular Order, No. 13, dated 28th July, 1864.

Mr. Justice Sumboonath Pundit.
" " E. Jackson.
" " Levinge.
" " Glover.
" " Macpherson.
" " Peterson.
" " Scott.

necessary to inform the Judges subordinate to them that, if the proceeding upon which the commitment is based is altogether illegal, the Sessions Judge should at once represent the illegality to the High Court under Section 434 of Act XXV. of 1861, referring the proceeding itself to the Court at the same time, and the Court will then be in a position to annul the whole proceeding, including the commitment.

Circular, No. 8.

DATED CALCUTTA, THE 22ND JUNE, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.

With a view to introduce uniformity of practice, and to define the limits within which the agency of the Police may be exercised in the levy of fines under Section 61 of Act XXV. of 1861, the Court request attention to the following instructions.

2. Criminal Courts are empowered by Section 61 of the Code of Criminal Procedure, in certain cases, to issue a warrant *for the levy of the amount by distress and sale* of any movable property belonging to the offender. This Warrant should be directed to a Police Officer, and the authority issuing it, following the analogy of English law in such cases, should set a time for the sale and for the return of the warrant. If no one claims the property distrained, the Police have the power of selling it, within the time that should be specified in the warrant, without any previous reference to the Magistrate; if a claimant come forward, then the ownership of the property distrained must be determined by the Magistrate, and not by the Police. If at any time, subsequent to the return to the warrant and within the period of six years from the passing of the sentence, the fine or any part thereof

remains unpaid (Section 70 of Penal Code), and the Magistrate has, from information gained in any way, reason to think that any movable property belonging to the offender is within his jurisdiction, he should issue a fresh warrant for the attachment and sale of his property within a specified period, returnable within a certain time.

Circular, No. 9.

DATED CALCUTTA, THE 30TH JUNE, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.

A case having occurred in which a prisoner committed suicide after being transferred from the Lunatic Asylum to the custody of the Magistrate for the purpose of standing his trial, the Court direct that you will be so good as to make arrangements for the early trial in future of prisoners who, after being confined in such an Asylum, are reported of sound mind and capable of making their defence.

Circular, No. 10.

DATED CALCUTTA, THE 2ND JULY, 1864.

Mr. Justice Trevor.

To remove doubts which may exist, the Court are pleased to direct that, as evidence before the Police cannot, under Section 145, Code of Civil Procedure, be treated as part of the record or used as evidence, except under the circumstances detailed in Section 150 of the Code, the words "before the Police" be expunged from the several headings* of the Comparative Statement (No. 10) of Evidence. The Statement will then be in the accompanying form :—

* Cols. 3, 4, 8, 10, and 11.

No. 10.

ZILLAH

Comparative Statement of Evidence before the Magistrate and Sessions Judge.

1	2	3		4		5		6		7	8		9	10		11		12
Number and name of Witnesses.	Number and name of Prisoners.	Eyewitnesses.		Witnesses to the apprehension.		Witnesses to the Sooruthal.		Witnesses to confession in the Mofussil.		Witnesses to confession at the Fouzdary.	Circumstantial evidence.		Number of articles of property found in each Prisoner's house or possession.	Witnesses to		Witnesses to		Specification and number of articles of property recovered.
		Before the Magistrate.	Before the Sessions Judge.	Before the Magistrate.	Before the Sessions Judge.	Before the Magistrate.	Before the Sessions Judge.	Before the Magistrate.	Before the Sessions Judge.	Before the Sessions Judge.	Before the Magistrate.	Before the Sessions Judge.		Before the Magistrate.	Before the Sessions Judge.	Before the Magistrate.	Before the Sessions Judge.	

Circular, No. 11.

DATED CALCUTTA, THE 16TH JULY, 1864.

Mr. Justice Trevor.

I am directed to forward herewith, for adoption by you, three Forms, A., B., and C., for Returns of persons whipped, and cases appealed, under Act V. of 1864. The Returns now enjoined are intended to serve as a Supplement to the *Quarterly* Statements submitted by Magistrates to this Court, and to the *Annual* Returns of Sessions Judges. The information called for from Magistrates will, the Court observe, be valuable as showing every quarter the working of the Whipping Act in each District; but they think it will be sufficient for Sessions Judges to submit their Return once a year with their Annual Criminal Report. The monthly Jail Delivery Statements, as at present prepared, really do afford all the information required; but it will be convenient for the Court to have all this in a Tabular Form at the close of each year, and it will not entail much extra labor on the Judge's Officers.

2. Statement A. is intended to show the number of persons whipped under each of the Sections 2, 3, and 4, and how many, under each head of crime, have had no more than 10 stripes, how many no more than 20, and how many above 20 stripes.

3. A distinct Statement B. has been considered necessary for juvenile offenders, as they are punished under a distinct Section (5) of the Whipping Act, and the offences for which flogging is provided in their case have a far wider range than those for which adults may be flogged, embracing every crime short of murder.

4. Statement C., which will exhibit appeals, is a re-production of columns 1 to 9 of Statement No. 5 of the Quarterly Returns.

A.

WHIPPING IN LIEU OF OTHER PUNISHMENT UNDER SECTION 2, ACT VI. OF 1864.					WHIPPING IN LIEU OR IN ADDITION, ON A SECOND CONVICTION [FOR OFFENCES IN Col. 1] SEC. 3, ACT VI. OF 1864.			WHIPPING IN *addition* TO OTHER PUNISHMENT ON A SECOND CONVICTION FOR THE OFFENCES DETAILED BELOW, UNDER SEC. 4, ACT VI. OF 1864.				
1	2	3			4			5	6	7		
Nature of the offence.	Section of the Indian Penal Code under which it comes.	No. of persons flogged.			No. of persons flogged.			Nature of the offence.	Section of Indian Penal Code.	No. of persons flogged.		
		Up to 10 Stripes.	Up to 20 Stripes.	Up to 30 Stripes.	Up to 10 Stripes.	Up to 20 Stripes.	Up to 30 Stripes.			Up to 10 Stripes.	Up to 20 Stripes.	Up to 30 Stripes.
1 Theft ...	378							1. Giving or fabricating false evidence ...	193			
2. Do. in a building, tent, or vessel ...	380							2 Do. with intent to procure conviction of a capital offence.	194			
3 Do by a clerk or servant ...	381							3 Do with intent to procure conviction of an offence punishable with transportation or imprisonment ...	195			
4. Do. after preparation for causing death or hurt ..	382							4. Falsely charging any person with having committed an unnatural offence ...	211 & 377			
5. Extortion by threat...	388							5 Assaulting or using criminal force to any woman with intent to outrage her modesty	354			
6. Putting a person in fear of accusation in order to commit extortion ...	389							6. Rape ...	375			
7. Dishonestly receiving stolen property ..	411							7. Unnatural offences ...	377			
8. Do in the commission of a Dacoity ..	412							8. Robbery or Dacoity ...	390 & 391			
9. Lurking house-trespass or house-breaking in order to commit an offence punishable with whipping ..	448 & 445							9. Attempting to commit Robbery ...	393			
10. Do. by Night ...	444 & 446							10. Voluntary causing hurt in committing Robbery ...	394			
								11. Habitually receiving or dealing in stolen property ...	413			
								12. Forgery ...	463			
								13. Do. of a Document ...	466			
								14. Ditto ...	467			
								15. Do. for the purposes of cheating ..	468			
								16. Do. for the purpose of harming the reputation of any person	469			
								17 Lurking house trespass or house-breaking ..	448 & 445			
								18 Do. by Night ...	444 & 446			
Total ...									Total			

B.

CASES OF JUVENILE OFFENDERS PUNISHED WITH WHIPPING UNDER SECTION 5, ACT VI. OF 1864.

Nature of offence.	Section of Indian Penal Code.	No. of persons flogged.		
		Up to 10 Stripes	Up to 20 Stripes	Up to 30 Stripes.
Total ...				

C.

Appeals under the Whipping Act.

1	2	3	4	5	6	7	8	9
	Appeals from orders passed under Act VI. of 1864.							
From the orders of the	Pending on.	Preferred during the	Total.	Appeals rejected.	Order confirmed.	Order modified or reversed.	Pending at the close of	Longest period in days during which any undecided case has been pending.
Total ...								

Circular, No. 12..

DATED CALCUTTA, THE 27TH JULY, 1864.

Mr. Justice Trevor.

The Court, having reason to believe from a representation made by the Superintendent of the Alipore Jail, that the Circular Order of the late Nizamut Adawlut, No. 8* of the 15th August, 1859, is not always strictly acted up to, I am directed to request that you will in future be careful that its provisions are never disregarded.

Circular, No. 13.

DATED CALCUTTA, THE 28TH JULY, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.

It has been brought to the notice of the Court, though the fact is not within the Court's cognizance, that Magistrates proceeding under Chapter XII.

---

* CIRCULAR, No. 8.

DATED THE 15TH AUGUST, 1859.

H. T. Raikes, Esquire, *Judge.*

* 292 May, 14th 1824, 294 } 295 } June, 18th, Ditto.

The Court, in compliance with a request made by the Inspector-General of Jails, Lower Provinces, and in order to remedy some inconveniences experienced from the practice of including several prisoners in one and the same warrant for execution of sentence, which the provisions of the Circular Orders marginally noted do not sufficiently meet, are pleased to order as follows.

2. (1) In every instance, where more than one prisoner is sentenced by one and the same order of the Nizamut Adawlut or Sessions Judge to transportation, or to banishment, there shall be a separate warrant delivered on account of each prisoner to the Jail Darogah of the district Jail, to be forwarded to the Magistrate of the district to which a prisoner may be ordered by Government to be sent, or to the Superintendent of the Alipore Jail, as the case may be.

(2) A copy of his warrant shall be delivered to each prisoner.

(3) In the transit of a prisoner from the custody of one Magistrate to that of another, the original warrant and the said copy of the warrant shall be carefully transmitted along with the prisoner.

(4) On the expiration of sentence, or death before expiry of sentence, of a prisoner, the said warrants, original and copy, shall be taken and returned to the Magistrate of the district, whence the order for execution of sentence issued.

of the Code of Criminal Procedure, before committing an accused person to the Court of Session, do not, as a general rule, record his examination under Section 202 of that Code.

2. Although the Code of Criminal Procedure does not make it *imperative* on a Magistrate to examine an accused person at any stage of the enquiry, before committing him to stand his trial at the Court of Session, the Court think it necessary to impress upon all Magistrates the expediency of the general adoption of this course at some stage or other of the enquiry.

3. In those few and exceptional cases in which the guilt of an accused is so clear as to be beyond reasonable doubt, the practice in force may be permitted without risk; but, inasmuch as by Section 225 it is discretionary with a Magistrate to commit, or to discharge an accused person, according as he finds that the evidence is in his opinion sufficient for his conviction by the Court of Session, or otherwise, it is obvious that the truth of any ordinary case will be best elicited, and obscure points will be cleared away, by any explanation that an accused may wish to give, when after hearing all the evidence against him, or at any other time in the discretion of the Magistrate, he may be subjected to an examination before the Magistrate on points requiring elucidation; it being clearly explained to the accused, that it is at his option to answer such questions or not.

4. The Court have every expectation that the procedure adverted to in the foregoing paragraph will be henceforth, if it be not already, adopted by all Magistrates, as that most likely to conduce to a perfect administration of justice.

5. The Court, however, desire to explain that, in issuing these directions, they in no way sanction any proceedings of an inquisitorial nature.

Circular, No. 14.

DATED CALCUTTA, THE 5TH AUGUST, 1864.

Mr. Justice Trevor.
" Loch,
" Steer.

A case having been recently brought to the notice of the High Court, in which the course to be pursued, in case of an accused person being a lunatic, was entirely misapprehended by the District Criminal Authorities, the Court are pleased to draw the attention of the Criminal Authorities subordinate to them to the provisions of Sections 388 to 394 of the Code of Criminal Procedure. The Rules embodied in those Sections are as follows:—

1. If a person charged with an offence appear to be of unsound mind, and incapable of making a defence when brought before a Magistrate, that Officer, after ascertaining the *primâ facie* truth of the charge, and making the enquiries prescribed in Section 388 of the Criminal Procedure Code regarding the state of the mind of the accused, if he consider the person to be of unsound mind, is to stay all further proceedings.

2. If the offence with which the party is charged, and of the truth of which there is *primâ facie* proof, be bailable, the Magistrate may release the party, on sufficient security being given that he shall be properly taken care of, and prevented from doing injury to himself or others; and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused must be kept in safe custody in such place as the Local Government shall direct—(Section 390, C. C. P.)

3. The Magistrate may at any time, if he has reason for believing that the person is of sound mind, resume the investigation; but if the accused person, when again brought before the Magistrate, shall still appear to be of unsound mind and incapable of making a defence, the Magistrate shall act as provided by Sections 388 and 390; the course taken under Section 390 following, as a necessary consequence, the enquiry held under Section 388 (Section 392).

4. If the party accused, when brought before the Magistrate, is in a fit state to make his defence, the Magistrate should proceed with the investigation; and if the offence be one *triable* by a Magistrate, he should complete the trial; and if he determines that the offence charged was committed by the accused in a sound state of mind, he should pass sentence on him, according to law: but if the accused should be acquitted on the ground that at the time he committed the act, which but for the incapacity found would have been an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the Magistrate should retain him in safe custody till the orders of the Local Government be received for his removal to, and detention in, a Lunatic Asylum or other suitable place.

5. If the offence with which the accused party is charged *be not triable* by the Magistrate, he must, if the party be in a fit state of mind to make a defence, complete his investigation; and, if he find the charge proven against the prisoner, should commit him for trial in order that, if it be shown on the trial that the offence was committed when the prisoner, by reason of unsoundness of mind, was incapable of knowing that he was doing what was wrong, or prohibited by law, he may be acquitted by the Court which alone has authority to try him. The Sessions Court will proceed to deal with the prisoner in exactly the same mode as the Magistrate has been directed to deal with him in the 4th paragraph of this communication according as he may find that the offence, of which the prsioner was charged, was committed by him in a sound or an unsound state of mind.

6. If in the course of the trial the prisoner appear to be of unsound mind, the Sessions Judge must suspend proceedings, and follow the course prescribed by Section 389.

7. If the party, being of sound mind when put on his trial, is found, although of sound mind at the time, not to be guilty of the offence wherewith he stands charged, and is acquitted on

that ground, he must be discharged as any other person legally acquitted.

8. Under no circumstances should a party accused of an offence, being at the time of unsound mind and incapable of making a defence, be examined by a Magistrate or committed for trial.

(See Circular Order, No. 22, dated 10th December, 1864.)

Circular, No. 15.

DATED CALCUTTA, THE 11TH AUGUST, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.

It has been recently brought to the Court's notice that considerable diversity of practice exists in carrying out the provisions of the law in regard to the taking of recognizances from accused persons and their sureties, and that the result of the diversity and irregularity is not only to cause Police Officers to be employed in needless inquiries, but also to keep the accused person in custody pending the result of the inquiry into the sufficiency or otherwise of the bail offered. The attention of the Criminal Authorities is therefore directed to Section 214 of the Code of Criminal Procedure, which simply requires the Magistrate to take a recognizance, *in such a sum of money* as he may think sufficient, from the accused and one or more sureties; and to Sections 219 and 220, which lay down the proceedings to be adopted to compel payment of the penalty mentioned in the recognizance from the person executing the personal recognizance, and from his sureties. At the same time, however, it is the duty of the Magistrates to satisfy themselves that the sureties are, in point of substance, persons of whom it may reasonably be presumed that they can, if necessary, satisfy the terms of the bail-bond.

Circular, No. 16.

DATED CALCUTTA, THE 20TH AUGUST, 1864.

The Offg. Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Steer.
" " Morgan.

The High Court are pleased to circulate, for adoption, the following Rules which lay down the method in which sentences should be recorded:—

1*st*.—When *all* the facts in evidence form portion of *one* entire offence, a verdict should be entered up, and sentence passed, for that offence only; and though a portion of the *same facts* would, if they stood alone, constitute a second offence, a verdict of "not guilty" should be entered up on any separate charge for the minor offence.

2*nd*.—For instance, when the chief offence charged and proved by the evidence is theft, the fact of the stolen property being found in the possession of the offender should be considered as a portion of the evidence by which the chief offence is proved, and a verdict of "not guilty" should be entered up on the charge of dishonestly receiving or retaining such property.

3*rd*.—If a portion of the facts in evidence constitute *one* offence, and another and *distinct* portion constitute a *second and separate and distinct offence* under the Penal Code, a verdict on each charge should be entered up, and a substantial sentence passed on the principal offence, and a light one or none on the second offence charged; or a substantial sentence, if necessary, on each offence, the second sentence to commence on the expiry of the first. The Code of Criminal Procedure does not recognize concurrent or cumulative sentences.

4*th*.—Such, for instance, would be the course to be pursued when there is a conviction for rape and assault, or subsequent imprisonment, or for forgery of a Bill of Exchange and for subsequent perjury in swearing in a Court of Justice that it is a genuine document.

Circular, No. 17.

DATED CALCUTTA, THE 9TH SEPTEMBER, 1864.

Mr. Justice Trevor.

The attention of the High Court having been drawn to an apparent oversight in the classification of offences under Headings 40 and 41 of the Schedule appended to Circular, No. 19,* dated the 31st December, 1861, in consequence of which the distinction, which it was intended to effect between criminal trespass for the commission of *serious* offences and other cases of criminal trespass of a less serious character has not been secured, I am directed to request that the classification of Sections of the Penal Code, shown on the margin, may be substituted for that now existing in the Headings in question.

No.	Description of offences.	Sections of Penal Code applicable.
39	CRIMINAL TRESPASS. Resulting in death or other grievous hurt	459 and 460.
40	For commission of serious offences ...	449, 450, 451, 452, 454, 455, 457, & 458.
41	Other cases ...	447, 448, 453, 556, 461, and 462.

2. The only alteration which it has been considered necessary to make is, you will see, the transfer of Sections 451 and 454 from Heading, No. 41 to Heading, No. 40. These Sections relate, the one to *house-trespass*, and the other to *lurking house-trespass* or *house-breaking* in order to the committing of an offence punishable with imprisonment, and include cases in which the offence intended to be committed is *theft*. Where such intention exists, the imprisonment may be extended to 7 years under the one Section, and to 10 under the other; and the offence cannot, therefore, be regarded as other than "serious" in the sense in which that term is used under Heading

40, which already includes a third Section (457) of the same nature as Sections 451 and 454.

ERRATUM
FOR
(3.) Chowkeedaree cases under Regulation XXII. of 1816, and Act XV. of 1837.
READ
(3.) Chowkeedaree cases under Act XX. of 1856, and Act V. of 1861.

3. With reference to the Specifications under Heading No. 71 of the same Schedule, I am to take this opportunity to request that the correction indicated marginally, may be made in the entry No. 3, in the copies of the Circular,* No. 19, dated 31st December, 1861, in your Office.

Circular, No. 18.

DATED CALCUTTA, THE 15TH SEPTEMBER, 1864.

Mr. Justice Trevor.

I am directed to refer to Circular Order, No. 11, dated 22nd April, 1863, para. 2, which prescribed a general head, as per margin, for "acquittals" in the Periodical Returns from Magistrates, and to the Memo. A, at the back of the Quarterly Returns, which is intended as an analysis of column 16 of Part 1, Statement No. 1; and to observe as follows.

Heading, 14, 15, *and* 16 *of Statement No.* 1, *Part I, and Statement No.* 2, *Part I.*

Acquitted.		
Under Sec. 255, Criminal Procedure Code.	Under Sec. 250, Criminal Procedure Code.	Total.

2. The above headings (cols. 14 to 16) provide for cases disposed of under Sections 255 and 250 of the Code of Criminal Procedure, that is to say, for cases triable under Chapter XIV. in which a *warrant* may issue; making no provision whatever for acquittals (Section 272) under Chapter XV., *i. e.*, in cases in which a *summons* ordinarily issues, or for dismissals (Section 259) or for accused persons discharged under Section 225 (Chapter XII.) by Magistrates in cases triable by a Court of Session. In addition to this, no column is provided for *with-*

* This Circular will be found above, page 25.

drawals of complaints under Section 271 (Chapter XV.) of Act XXV of 1861; and no place is found for them in the analysis required in Memo. A. Indeed, no kind of acquittals or dismissals, or cases of withdrawal or discharge, except such as come under Sections 255 and 256, can be admitted into the Magistrate's Return as it now stands, without violating the terms of the descriptive headings of columns 14 and 15.

3. This state of things has been found embarrassing to Magisterial Officers, throwing them upon the exercise of their individual discretion, without a guiding principle for the entry and classification of cases disposed of; and, by leading to diversity of practice, has left the Court uncertain of the real character of the entries under "acquitted" in columns 14 to 16. It has moreover rendered practically useless the check provided in Circular Order, No. 14, dated the 21st May, 1862, by putting it out of the power of the Court to ascertain clearly what the true proportion has been between convictions and acquittals.

4. To obviate these anomalies, and to secure as far as possible a correct and perfect exhibition of all cases in which neither conviction nor commitment has resulted, the Court purposes to strike out the word "acquitted," the present superscription of columns 14 to 16, and to alter the headings of those columns themselves in the manner indicated on the margin. Column 14 will then exhibit *all* cases of withdrawals of plaints; for under the present procedure, no plaints can be withdrawn, except under Section 271, Act XXV. of 1861. Column 15 will provide for persons discharged without trial under Chapters XII, and XIV, Code of Criminal Procedure; while column 16 will secure the exhibition, not only of persons acquitted *after trial*, under Sections 255 and 272, but also of persons, the

14.	15.	16.
Persons the charges against whom have been withdrawn under Section 271, Code of Criminal Procedure.	Discharged under Secs. 225, and 250 of Code of Criminal Procedure.	Acquitted under Secs. 255, 259 and 272 of Code of Criminal Procedure.

charges against whom have been *dismissed* by reason of default on the part of the complainant, under Section 259 (which will of course embrace cases under Section 269). The Court has judged it right to include such cases under *acquittals*, because, though not technically such, they are *virtually* acquittals, inasmuch as it has been ruled that a plaint once *dismissed* for non-appearance of the complainant, under Sections 259 or 269, shall not be revived, whatever may have been the reason of the default. No column has been deemed necessary for the total number of persons released, and the headings as now framed will, the Court trusts, provide for a complete exhibition of all cases of acquittal, discharge, or withdrawal under the Code of Criminal Procedure *without an increase in the number of columns.*

5. I am to take this opportunity of drawing your attention to Rules 9 and 25 of the Rules for the preparation of Magistrates' Statements, which apply, *mutatis mutandis*, to Columns 14 to 16 of Statements, No. 1, Part I, and No. 2, Part I, of the forms as now altered, and also to Rules 93 and 134, relative to the preparation of Memo. A, which will now be the analysis of all three columns 14, 15, and 16.

(See Circular, No. 1, dated the 10th January, 1865.)

Circular, No. 19.

DATED CALCUTTA, THE 17TH SEPTEMBER, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.

Under Section 443 of the Code of Criminal Procedure, and in continuation of Circular Order, No. 6, dated 16th May last, the High Court are pleased to direct that all Magisterial Officers subordinate to them shall, in the examination, of prosecutors, witnesses, and prisoners, continue to record in each deposition, statement or defence, the following particulars which are indispensably necessary for the future identification of the parties examined, *viz.*, the name of the person examined, the name of his or her father; and if a

married woman, the name of her husband; the religion, caste, profession, and age of the party or witness; and the village and pergunnah in which he or she resides.

Circular, No. 20.

DATED CALCUTTA, THE 4TH OCTOBER, 1864.

Mr. Justice Trevor.
" " Loch.
" " Steer.

The Court is pleased to issue the following instructions for the information and guidance of all Criminal Authorities subordinate to it. The charges which, under Section 167 of the Code of Criminal Procedure, cannot be entertained against the Officers therein described except under the sanction or direction of the local Government or other competent authority, relate to offences which can be committed by public servants *as such*, and which are specified in Chapter IX. of the Indian Penal Code, and to no other. Offences committed against the person or property of individuals by one who happens to be a public servant, are not necessarily committed by him *as such public servant*, in the sense in which those words are used in the Penal Code; and unless committed in that character, must be regarded as the acts of *individuals in their private capacity;* charges, therefore, founded on such acts, do not need the sanction of Government or other competent authority aforementioned, before they can be entertained by a Criminal Court, but should be dealt with in the same way as charges against individuals ordinarily are.

Circular, No. 21.

DATED CALCUTTA, THE 22ND NOVEMBER, 1864.

The Offg. Chief Justice.

A case having been recently brought to the notice of the Offg. Chief Justice, in which a person, who should have been simply summoned as a witness, had, without any sufficient cause, been arrested under a

warrant issued by a Justice of the Peace under the provision of Section 188, Code of Criminal Procedure, and who, after his arrest, had been put in irons, it appears to His Lordship desirable to call your attention to the necessity of stating as shortly as possible in every warrant, the special matter on which it proceeds.

2. By Section 76 of the Code of Criminal Procedure, every warrant is to be in the form B. given in the Appendix, or to the like effect. Form B. in the Appendix expresses on the face of it the special cause on which it is granted, *viz.*, that the party "stands charged with an offence." A warrant "to the like effect," under Section 188, should contain a recital that "A. B., who was required to give evidence as a witness in a case against ————, had absconded," or was "likely to abscond;" or under Section 191, "had been summoned and omitted to attend." A strict adherence to the form of warrants of arrest prescribed by the Code of Criminal Procedure, will tend to prevent their being granted irregularly and without enquiry as to whether the circumstances justify their issue.

3. Secondly, the Officers of your Court should be informed that witnesses brought up under the 188th and 191st Sections should not be treated as criminals and put in irons, but simply as persons arrested on civil process.

Circular, No. 22.

DATED CALCUTTA, THE 10TH DECEMBER, 1864.

Mr. Justice Trevor.

In continuation of their Circular No. 14, dated 5th August, the Court request the particular attention of all Sessions Judges to the terms of Section 393, Code of Criminal Procedure, in all cases falling under it.

2. It will be observed that it is necessary that the finding should state specially whether the accused committed the act charged or not, if he be acquitted on the ground that, at the time

at which he is charged to have committed the offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law. In some instances, the Judges have found the prisoner *guilty* of the offence charged, and then acquitted him on the ground of insanity, thus including two opposite verdicts in one and the same finding, a contradiction caused entirely by a want of attention to the words of the law.

Circular, No. 1.

DATED CALCUTTA, THE 10TH JANUARY, 1865.

Mr. Justice Trevor.

As it may be found difficult to apply the instructions of Circular Order, No. 18, dated 15th September last, to the preparation of the Magistrate's annual Returns for the past year, seeing that the changes introduced by that Circular did not have effect until most of the quarter's Returns for 1864 had been submitted—the Court are pleased to direct that the Headings 14, 15, and 16 of Statements, No. 1, Part 1, and No. 2, Part 1 need not all be filled up. It will be sufficient for the Court's purposes, in regard to the annual Returns, to have the entire number of persons released in 1864 in a single column, as that will include all cases brought on for hearing in which neither conviction nor commitment has resulted.

2. The new Headings should be strictly followed in all the current year's Returns, quarterly as well as annual.

Circular, No. 2.

DATED CALCUTTA, THE 13TH FEBRUARY, 1865.

Mr. Justice Trevor.

As the Court have reason to believe that there exists a somewhat general misapprehension as to the interpretation of simple imprisonment, one of the punishments prescribed in Section 53, Penal Code, they think it necessary to remind all Officers administering Criminal justice, that no prisoners sentenced to simple imprisonment can be lawfully compelled to labor while detained

in jail. There is, however, no objection to such convicts being employed on any trade or occupation permitted in the Jail Rules, *if they of their own free will express their desire for employment.*

Circular, No. 3.

DATED CALCUTTA, THE 13TH MAY, 1865.

Mr. Justice Trevor.

The Court requests generally the attention of all Sessions Judges and Magistrates to Sections 22 to 46 of Act XIII. of 1865, which have reference to the *sittings under a Commission* of a Judge of the High Court, either alone or with an Associate Judge, in the exercise of the Original Criminal Jurisdiction in places other than the usual places of the sitting of such Court; and especially the attention of Sessions Judges to Sections 35 and 41, and of Magistrates to Sections 28, 30, and 31 of the same law.

Circular, No. 4.

DATED CALCUTTA, THE 23RD JUNE, 1865.

Mr. Justice Trevor.

As the provisions of the law regarding the record by the Sessions Judge of the opinion of the Assessors in cases tried by him, and in districts in which the system of trial by Jury obtains, of the verdicts of Juries, seem to be imperfectly carried into execution, the Court are pleased to draw the attention of all Sessions Judges to the proper procedure to be observed in these respects.

2. "*The opinion of each Assessor shall,*" it is declared by Section 324, Code of Criminal Procedure, "*be given orally, and shall be recorded in writing by the Court.*" The Court desire that this record shall appear at the commencement of the judgment of the Sessions Judge. It is not, in the Court's opinion, sufficient that this record should contain a mere

verdict of guilty or not guilty, or proven or not proven: what the Court require is, not only the result arrived at by each Assessor sitting on a Sessions trial, but, if possible, the reasons by which each Assessor arrived at that result, that is, the grounds of his opinion. While avoiding prolixity, a Sessions Judge should be careful to be intelligible and precise in recording such opinions.

3. The Sessions Judges of districts in which trials by Jury are held, and all Sessions Judges presiding over trials in which, under Section 323 Code of Criminal Procedure, special Juries shall be empanelled, should, before commencing the proceedings of the trial, record in English the names of all the Jurymen in attendance at the Sessions, and after the selection by lot, under Section 342, of the persons who are to constitute the Jury in the particular case before the Court, they shall also mark the names of those selected. These papers should form part of the record of the case.

4. If, in accordance with Section 343, any objection be raised to any Juror, the name of the objector, the nature of the objection, and the decision of the Court shall also be recorded.

5. The verdict of the Jury shall also be stated on the paper on which the foregoing details are set forth.

6. The Court expect that these instructions will for the future be implicitly observed.

Circular, No. 5.

DATED CALCUTTA, THE 5TH JULY, 1865.

Mr. Justice Trevor.
" " Loch.

For the purpose of enabling Magistrates to ascertain whether parties charged before them with heinous offences have been previously convicted of any of the offences, for which enhancement of punishment is provided on a second

1. Offences relating to Coin and Government Stamps (Chapter XII. P. C.).

2. Offences against Property (Chapter XVII. P. C.)
3. Giving or fabricating false evidence (Sections 193 to 195, P. C.)
4. Falsely charging any person with having committed an unnatural offence (Sections 211 and 377, P. C.)
5. Assaulting or using criminal force to any woman with intent to outrage her modesty (Section 354, P. C.)
6. Rape (Section 375, P. C.)
7. Unnatural offences (Section 377, P. C.)
8. Forgery (Sections 465, 466, 467, 468, 469, P. C.)
9. Culpable homicide (Section 304.)
10. Causing grievous hurt (Sections 323 to 326), and Sections 329, 331, 333, 335, 338.)

or subsequent conviction, by Section 75, Act XIV. of 1860, and Section 4, Act VI. of 1864, and for purposes of general statistical information, the High Court are pleased to direct that Registers be opened in Magistrates' Offices in the form appended to this Circular. These Registers should contain the names of parties convicted of any of the crimes specified in the margin, and should be in the Bengallee or Urdu language and character, varying according to the Vernacular of the District.

2. Every conviction, as sentence is passed, must be entered in the Office of the Magistrate of the District by the Officer, whose duty it is to keep the *Register of Convictions*. In cases committed to the Sessions, the entry will be made on sentence being passed by the Sessions Judge. If a prisoner be released on appeal, whether by the Judge or by the Magistrate, a note should be made in the Column of remarks of the date and purport of the order of the Appellate Court.

3. Similar Registers should be kept up in the same manner by Sub-Divisional Officers regarding the offences specified which may have been committed within their respective jurisdictions, and for which any persons may have been convicted. These Officers should report to the Magistrates the entries of the past month regularly at the commencement of each successive month for incorporation in the general District Register.

4. To ensure the proper preparation and keeping up of the Register, the Magistrate or other Magisterial authority in charge shall require the Officer, whose duty it is to prepare it,

to bring the Register for his inspection and signature at least once every week.

5. At the close of the year, an Alphabetical Register of the parties convicted within the 12 months, should be made for facility of reference; and at the close of every fifth year, an Alphabetical Register should be prepared from the Alphabetical Registers of the previous five years.

6. When a prisoner has been convicted more than once, a note to that effect should be made against his name in the Register opened for that purpose.

7. For the purpose of giving the foregoing Rules retrospective effect, an Alphabetical Register should be at once prepared in the form prescribed in this Circular Order of parties convicted since the date on which the Penal Code came into force, *i. e.*, from the 1st January 1862 to the end of 1864, the requisite information being derived from the Register of Convictions in the charge of the Record-keeper and of the Jailor.

Name of the Prisoner (including his alias if any).	Name of his Father.	Residence.	Profession or Trade.	Caste.	Age or supposed age.	Height.	Personal marks, such as squint, lameness, loss of limb, permanent scars, &c.	Of what offence convicted.	Date of conviction.	Sentence passed.	Previous conviction.	Remarks.

Circular, No. 6.

DATED CALCUTTA, THE 17TH JULY, 1865.

Mr. Justice Trevor.

The Court, having reason to believe that the terms of the late Sudder Court's Circular, No. 20, dated 20th August, 1857, have in many cases been neglected, are pleased to call the attention of all Sessions Judges and Magistrates of Districts thereto, with the view to enforcing for the future a more general observance of its requirements.

2. The Circular is reproduced for easy reference.

3. If the Sessions Judges and Magistrates will, from time to time, visit their Record-rooms (as they should), there will, the Court think, be no difficulty in obtaining a proper arrangement of all their records. The Court desire to impress seriously upon all Officers the extreme importance of this work; for, without a proper arrangement of its records, and a periodical clearance of all old and useless papers, the efficiency of a public Office is much impaired. On the other hand, a neglect of this duty, in the course of time leads to such confusion as invariably results in an application for an extra Establishment to perform a duty which, if regularity had been enforced in the Office, should have been executed without any difficulty by the Establishment attached to that Office. The subject has recently been brought to notice by certain applications of this nature, which the Court have, with considerable reluctance, been compelled to submit to Government; but after this warning, the Court wish to inform all Sessions Judges and Magistrates of Districts, that they expect that the necessity for applications for extra Establishments will not arise; and that, if any such applications are submitted, the Court will be compelled to hold the individual Officer personally responsible for an expense which must be held to have been caused solely by his carelessness and inattention to orders.

4. Mention of the state of their Record-rooms should invariably be made in the Criminal Reports of Sessions Judges and Magistrates. The Court will not be satisfied with a mere cursory mention, but require a clear description of the state of each Record-room, and the dates up to which the records have been sorted or destroyed, so that it may appear without doubt that this duty has in no way been neglected.

Rules in Circular 20, dated 20th August, 1857.

I. Records of Sessions trials and heinous (*i. e.*, non-bailable) cases of Magistrates' Courts generally of above 14 years' date may unobjectionally be destroyed, a discretion being exercised at the same time by the Sessions Judges and Magistrates of preserving individual cases or papers on any grounds appearing to them sufficient; cases in which sentences are not expired must invariably be preserved.

II. Provided that cases, in which parties accused have hitherto eluded apprehension, shall always be preserved.

III. The above Rules should be acted on from year to year, so that no accumulation may occur beyond a term of 14 years in regard of the records of heinous (*i. e.*, non-bailable) cases.

IV. In regard to the records of the Magistrate's Court, the following may be destroyed yearly, if upwards of two years old, excepting those which the Magistrate may deem it prudent to preserve in consequence of the non-arrest of particular offenders or non-realization of fines. In cases of the last description, the records should be destroyed, at all events, after six years from the date of sentence :—

Security cases, if expired.

Petty (*i. e.* non-bailable) trials.

Act IV. of 1840 (re-enacted in Ch. XXII. Act XXV. of 1861) Suits, excepting the decisions and documents, plaints and answers.

Miscellaneous cases.

Thannah Diaries.

Police Reports, in which no further proceedings followed.

Miscellaneous Roobucarees.
Ditto Reports and Returns by the Nazir.
Copies of Perwannahs.
Ditto of Ishtahars.
Despatch Books.
Receipt Books of the Record-room.
Rough Order Books.
Witnesses' Attendance Books.

Appeals.

Nazir's records, excepting lotbundees, accounts of money, and Ferry Ghat papers.
Miscellaneous Reports of the Jailor.
Miscellaneous Petitions.
Periodical Statement, except Register of petty (*i. e.*, non-bailable) cases.
Register of Mooktearnamahs, excepting "general" ones.
Register of Miscellaneous cases.
Ditto Petitions.

V. In regard to cases appealed to the Sessions Court, the Sessions Court record of such cases may be periodically destroyed after a term of six years. Thus, on the 1st January next, all appeal records of this nature may be destroyed, appertaining to a date previous to 1st January 1853, (*i. e.*, at the present time 1861).

Circular, No. 7.

DATED CALCUTTA, THE 28TH JULY, 1865.

Mr. Justice Trevor.

An instance having been reported to the Court in which a Judge allowed the salary of a particular appointment on his Establishment to be drawn by an Officer who did not hold, or conduct the duties of, that appointment, the Court are pleased to remind all Sessions Judges that such a practice is altogether irregular and directly opposed to the orders of Government, which have created certain

appointments with fixed salaries. No deviation from these orders can be permitted without special sanction and if any irregularities of the nature above noticed exist, they should at once be put an end to, the Court being informed of the fact.

Circular, No. 8.

DATED CALCUTTA, THE 4TH AUGUST, 1865.

Mr. Justice Trevor.

The Court request that, in holding their Jail deliveries for September next, Sessions Judges will make arrangements for trying, as far as possible, at the commencement of their Sessions, all cases in which murder (Section 302, Penal Code) is one of the offences charged, as it is important that the orders of the High Court, in all cases in which capital sentences have been passed, should be obtained and communicated to the Sessions Courts before the commencement of the vacation.

2. The High Court expect that no Sessions Judge will close his Court for the Dusserah vacation as long as the orders of the High Court regarding such capital sentences have not been received.

Circular, No. 9.

DATED CALCUTTA, THE 28TH AUGUST, 1865.

The Offg. Chief Justice.

The Court request the immediate attention of all Sessions Judges to Government Notification, dated 6th instant, published at page 1422 of the *Calcutta Gazette*, which introduces English as the language for the record of evidence in cases tried in Courts of Session. The Court desire to impress upon all Sessions Judges the great responsibility that is thus thrown upon them, and the extreme necessity for the utmost care in rendering accurately into English the Vernacular expressions made use of by witnesses.

In depositions in which there may be any doubt as to the exact meaning of any expression used, and in which the doubtful expression has an important bearing on the offence of which the prisoner is charged, the Court would suggest the expediency of transcribing in Roman characters the words actually used, in order that the Court may be in a position, on the matter coming before it, without fear of error, to determine on their exact signification, and in consequence to give them their due and proper weight. The Court rely with confidence on the care and discretion of Sessions Judges in exercising the very responsible powers now conferred on them.

2. The Court believe that all Sessions Judges are fully acquainted with the Vernacular language in ordinary use in their districts; but should any instance occur in which a foreign language is used, or in which the evidence may be delivered in a dialect to which a Judge may be unaccustomed, an Interpreter should be employed in the manner prescribed by Section 431, Code of Criminal Procedure.

3. In conclusion the Court desire only to remind Sessions Judges that the Notification of Government does not refer to the examination, or defence, of the accused, which should, as heretofore, be recorded in the language and exact words in which it is delivered.

Circular, No. 10.

DATED CALCUTTA, THE 20TH NOVEMBER, 1865.

Mr. Justice Trevor.

The Court are pleased to direct that, for the future, all Warrants of Release and Sentence shall be addressed to the *Officer in charge of the Jail*, instead of to the *Magistrate of the District*, as it is the intention of Government to appoint Officers other than Magistrates to the special charge of large Jails.

(See Circular Order, No. 3, dated 25th March, 1867.)

Circular, No. 11.

DATED CALCUTTA, THE 20TH NOVEMBER, 1865.

Mr. Justice Trevor.

The Court request that—in any explanation that may be furnished by the Courts of Criminal Appeal regarding any appeals which have remained undecided for more than one month in consequence of further enquiry, and of additional evidence being called for under Section 422 Code of Criminal Procedure—there shall be stated the date on which such order was passed, so that the Court may thus be in a better position to judge of the real cause of the delay in the decision of such case.

2. The High Court take this opportunity of reminding the Lower Courts of Criminal Appeal that any proceedings involving further enquiry, or the taking of additional evidence under the law above cited, should be promptly completed, in order that the course of justice may not be interrupted more than is absolutely unavoidable.

Circular, No. 12.

DATED CALCUTTA, THE 27TH NOVEMBER, 1865.

Mr. Justice Trevor.

The Court, having recently found from an explanation furnished by a Magistrate, that witnesses are not invariably examined and discharged on their attendance before Criminal Courts, but are sometimes temporarily discharged without any examination, being bound over to appear again on another day, think it their duty to notify to all Magistrates their severe condemnation of such irregular proceedings.

2. The evidence of witnesses should invariably be recorded as soon as possible after their attendance. If, from unavoidable causes, an adjournment is indispensable, there should be no unnecessary delay. Witnesses remaining over from one day should, as a rule, be examined at the first sitting of the Court on the

following day. By this means the public will be put to no inconvenience, and justice will be administered in a prompt and satisfactory manner.

3. The practice which the High Court have found to exist in the Court of one Magistrate is not, it is believed, prevalent; but if, contrary to the Court's expectations, it should exist anywhere, it must be forthwith discontinued, inasmuch as it is not only contrary to the spirit of the Criminal Procedure, but is calculated only to deceive the superior authorities by placing before them fictitious returns of the punctual and regular examination and discharge of witnesses.

4. The Court expect that the Chief Magistrates of districts will carefully supervise the returns of their subordinates, as the Court hold them responsible for the correction of such irregularities as have now been discovered.

Circular, No. 1.

DATED CALCUTTA, THE 16TH JANUARY, 1866.

Mr. Justice Trevor.

The Court is desirous of pointing out to the Criminal Authorities that, when a European British subject and a Native subject are together charged with an offence requiring the commitment of the former to the High Court for trial, the latter should not be committed to the High Court also, but should, in the ordinary manner, be committed to the Sessions Court competent to try the offence.

Circular, No. 2.

DATED CALCUTTA, THE 7TH FEBRUARY, 1866.

Forwards, for the information and guidance of the Criminal Authorities in the Lower and Extra-Regulation Provinces, a copy of the following decision.

HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

Dated the 31st January, 1866.

CRIMINAL JURISDICTION.

Referred under Section 434, *Code of Criminal Procedure, and Circular Order, No.* 18, *dated* 15*th July*, 1863, *in re Thakoordash and Godai Sheik.*

Present:

The Hon'ble C. B. TREVOR,
The Hon'ble L. S. JACKSON, } *Judges.*
The Hon'ble F. A. GLOVER,

We think it clear that convictions under Act V. of 1861 are appealable in the same way as other convictions.

Section 21 Code of Criminal Procedure provides that "the Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code, or under *any special or local law*, and in the investigation shall be guided by the provisions of this Act."

Act V. of 1861 is a special law on the subject of Police, and persons charged with offences punishable under that law, must be tried under the provisions of the Code of Criminal Procedure.

Section 409 of the same Code provides that any person convicted on a trial held by the Magistrate of the district or other officer exercising the powers of a Magistrate, may appeal to the Court of Session to which such Magistrate is subordinate (subject to the limit prescribed in Section 411).

The appellants in this case are persons convicted on a trial held by an officer exercising the powers of a Magistrate, and sentenced to imprisonment exceeding the limit fixed by Section 411. They were therefore, we think, entitled to an appeal to the Sessions Court. We therefore direct the Sessions Judge to hear the present appeal, and to pass such orders as the circumstances may require, and we further direct that a copy of this decision be laid before the Judge in the English Department.

Circular, No. 3.

DATED CALCUTTA, THE 9TH FEBRUARY, 1866.

Mr Justice Trevor.

The Court are pleased to direct that, in commitments for giving false evidence, under Sections 193, 194, and 195 of the Indian Penal Code, the Committing Officer shall invariably insert in the charge the particular statements on which perjury is assigned. By this method of procedure alone can the accused fully understand the offence with which he stands charged, and be enabled to meet the charge brought against him.

Circular, No. 4.

DATED CALCUTTA, THE 23RD MARCH, 1866.

Mr. Justice Trevor.

The Court request that information on points noted in the accompanying forms, be supplied by Sessions Judges and Magistrates of Districts as soon as possible.

2. As these Returns have been urgently called for by Government, the Court expect there will be no delay in furnishing them.

Name of Court.	Value of Stamp fees realised on papers filed in Court during 1859.

Circular, No. 5.

Cancelled by Circular Order, No. 6, dated 18th July, 1867.

Circular, No. 6.

DATED CALCUTTA, THE 17TH APRIL, 1866.

Mr Justice Trevor.

The Court request that "Section 67" may be substituted for "Section 367" in paragraph 4 of their Circular No 19, dated 21st July 1863, the latter figure being a clerical error

Circular, No. 7.

DATED CALCUTTA, THE 14TH JUNE, 1866.

Mr. Justice Trevor.

The Court are pleased to circulate, for the information and guidance of all Sessions Judges and Magistrates, the annexed Circular Order issued by the Western Court, No. 12, dated the 27th April 1866, publishing a Table indicating the changes which have been made in the Schedule annexed to the Criminal Procedure Code by the provisions of Act VIII. of 1866.

Circular Order, No. 12 *of* 1866, *to the Criminal Authorities in the North-Western Provinces, Jhansie, and Kumaon. Dated Agra, the* 27*th April,* 1866.

W. Roberts, Esq.
F. B. Pearson, Esq. } *Judges.*

R. Spankie, Esq.
G. D. Turnbull, Esq. } *Offg. Judges.*

The Court are pleased to draw the attention of the Criminal Authorities to the provisions of Act VIII. 1866, published in the *Gazette of India* of the 3rd March 1866, amending the Schedule annexed to the Criminal Procedure Code.

2. The annexed Table has been prepared to indicate the changes which have been made in the law, whereby the jurisdiction of the Magistrates has been enlarged in respect of the *cognizance* of certain classes of cases under the Indian Penal Code. All Office copies of the Schedule should be corrected accordingly.

3. A copy of the Act is given below for facility of reference.

1	2	3		4
Section.	Offence.	By what Court triable.		Remarks.
		Under Act XXV. of 1861.	Under Act VIII. of 1866.	
172	Absconding to avoid service of summons or other proceeding from a public servant.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Any Magistrate.	
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto.	Ditto.	
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Altered in accordance with Section 3 of Act VIII. of 1866.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto.	Ditto.	Altered in accordance with Section 3 of Act VIII. of 1866.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Any Magistrate.	
	If the order require personal attendance, &c., in a Court of Justice.	Ditto.	Ditto.	
271	Knowingly disobeying any quarantine rule.	Ditto.	Ditto.	
272	Adulterating food or drink for man intended for sale, so as to make the same noxious.	Ditto.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Under Section 3 of Act VIII. of 1866.
277	Defiling the water of a public spring or reservoir.	Ditto.	Any Magistrate.	

278	Making atmosphere noxious to health.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Any Magistrate.	
279	Driving or riding on a Public way so rashly or negligently as to endanger human life, &c.	Ditto.	Ditto.	
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto.	Magistrate of the District, or Subordinate Magistrate of 1st Class.	Under Section 3 of Act VIII. of 1866.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	Ditto.	Any Magistrate.	
286	So dealing with any explosive substance.	Ditto.	Ditto.	
287	So dealing with any Machinery.	Ditto.	Magistrate of the District, or Subordinate, Magistrate, 1st Class.	Under Section 3 of Act VIII. of 1866.
289	A person omitting to take order with any animal in his possession so as to guard against danger to human life, or of a grievous hurt from such animal.	Ditto.	Any Magistrate.	
290	Committing a public nuisance.	Ditto.	Ditto.	
291	Continuance of nuisance after injunction to discontinue.	Ditto.	Magistrate of the District, or Subordinate Magistrate, 1st Class.	Under Section 3 of Act VIII. of 1866.
325	Voluntarily causing grievous hurt.	Court of Session.	Any Magistrate.	
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto.	Court of Session.	Under Section 3 of Act VIII. of 1866.
380	Theft in building, tent, or vessel.	Court of Session or Magistrate of the District.	Any Magistrate.	
381	Theft by clerk or servant of property in possession of Master or Employer.	Ditto.	Court of Session, or Magistrate of the District.	By Section 3 of Act VIII. of 1866.
392	Robbery.	Court of Session.	Court of Session, or Magistrate of the District.	

1	2	3		4
		By what Court triable.		
Section.	Offence.	Under Act XXV. of 1861.	Under Act VIII. of 1866.	Remarks
	If committed on the highway between sunset and sunrise.	Court of Session.	Court of Session, or Magistrate of the District.	
393	Attempt to commit robbery.	Ditto.	Ditto.	
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto.	Court of Session.	Under Section 3 of Act VIII. of 1866.
448	House-trespass.	Magistrate of the District or Subordinate Magistrate of 1st Class	Any Magistrate.	
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto.	Ditto.	
	If the offence is theft.	Court of Session or Magistrate of the District, or Subordinate Magistrate of 1st Class.	Ditto.	
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto.	Court of Session, or Magistrate of the District, or Subordinate Magistrate 1st Class.	Under Section 3 of Act VIII. of 1866.

Act No. VIII. of 1866.

Passed by the Governor-General of India in Council (received the assent of the Governor-General on the 2nd March, 1866.)

An Act further to amend the Schedule annexed to the Code of Criminal Procedure.

Whereas it is expedient further to amend the Schedule annexed to the Code of Criminal Procedure; It is enacted as follows:—

1. In lieu of the words in the parts of Column 7 of the said Schedule respectively referring to Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448, and 451 of the Indian Penal Code, there shall be read the words "any Magistrate."

2. In lieu of the words in the parts of the said column respectively referring to Sections 392 and 393 of the Indian Penal Code, there shall be read the words "Court of Session or Magistrate of the District."

3. Nothing herein contained shall be taken to alter the effect which any other part of the said Schedule had immediately before the passing of this Act.

4. This Act shall be read with, and taken as part of, the Code of Criminal Procedure.

Circular, No. 8.

Dated Calcutta, the 6th August, 1866.

To all Justices of the Peace in the Lower and Extra-Regulation Provinces of Bengal.

The Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Bayley.
" " Norman.
" " L.S.Jackson.
" " Phear.
" " Macpherson.
" " Markby.

The Court request the particular attention of Magistrates and others, who are Justices of the Peace, to the accompanying copy of an order passed regarding the commitment of European British subjects for trial before the said Court.

2. All warrants for the commitment of such European British subjects should be directed to the Superintendent of the Presidency Jail in Calcutta, and should be in the Form C, Appendix of Forms, Code of Criminal Procedure; and in pursuance of Section 9, Act XII. of 1865, the following words should be added at the end of the form before the date—" and you are hereby required to have the body or bodies of the said

before the said High Court for trial at the Sessions of the Court next ensuing the date hereof."

3. The Court observe that in several cases, in which European British subjects have been lately committed for trial to the High Court, there has been great want of care on the part of the Committing Officers. In one case the witnesses were sent down before the prisoner, who did not arrive until after the conclusion of the Sessions, and after the witnesses had returned. On the prisoner's being brought up for trial, there were no witnesses against him, and he was discharged. In other cases, prisoners have been sent down without any witnesses. In others, prisoners have been sent without any warrant of commitment, and the warrant of commitment has been sent afterwards instead of being delivered to the Police Officer in charge of the prisoner. The warrant of commitment ought always to be delivered to the Officer in whose custody the prisoner is sent, in order that he may deliver it with the prisoner to the Superintendent of the Jail as his authority to receive and detain the prisoner. Failure of justice has been caused in many cases through such neglects; and the Court trust that Justices of the Peace will be more careful in these respects in future, and that they will take proper steps for ensuring the attendance of the necessary witnesses at the Sessions. In addition to the warrant of commitment, a warrant should be directed to the Police Officer in charge of the prisoner, and should direct him to take the prisoner and deliver him to the Superintendent of the Presidency Jail. A form of such warrant is given below.

4. The following are the days fixed for the holding of the

remaining Criminal Sessions for 1866, instead of those originally fixed:—

Monday, 3rd September, instead of Monday, the 10th September.

Monday, 1st October, instead of Monday, the 8th.

Monday, 3rd December, instead of Monday, the 10th.

FORM OF WARRANT.

To (the name of the Officer or Officers sent in charge of the prisoner) and to all other Her Majesty's Peace Officers in the Provinces and Districts of Bengal, Behar, and Orissa, and places subordinate thereto whom this may concern.

Whereas of is charged with *(state the offence as in warrant of commitment)* and has been committed by me, the undersigned Justice of the Peace for Bengal, Behar, and Orissa,* and the places subordinate thereto, to the Superintendent of the Presidency Jail for trial before the High Court of Judicature at Fort William in Bengal. You are, therefore, hereby required to receive the said into your custody and to deliver him into the custody of the Superintendent of the Presidency Jail at Calcutta to be there safely kept until he shall be thence delivered by due course of law.

* This should be according to the appointment to the office of Justice of the Peace.

Dated the day of

ORDER.

The High Court of Judicature at Fort William in Bengal is pleased to order that all European British subjects who, during the present month, or in the months of August, September, October, and November next, shall be committed or bailed for

* Justice of the Peace for Bengal, Behar, and Orissa, and the places subordinate thereto.

trial before the said High Court by any Justice of the Peace beyond the local limits of the ordinary original Criminal Jurisdiction of the said High Court for an offence committed beyond those limits, shall be tried at the usual place of sitting of the said Court in Calcutta, and that such European British subjects shall, if not bailed, be committed for intermediate custody to the Presidency Jail; and if bailed, shall be bailed for trial at such usual place of sitting of the said High Court.

(See Circular, No. 13, dated the 5th December, 1866.)

Circular, No. 9.

DATED CALCUTTA, THE 3RD AUGUST, 1866.

Mr. Justice Trevor.
" " Loch.
" " Norman.
" " L.S.Jackson.

With reference to the form in which many Sessions Judges pass sentence of transportation in cases in which imprisonment is awardable for seven years or upwards, the Court request the attention of Sessions Courts to the terms of Section 59 of Act XLV. of 1860, from which it will be seen that the correct mode of proceeding is to sentence the offender to transportation, mentioning at the same time that, under Section 59 of the Indian Penal Code, such transportation is awarded instead of imprisonment, simple or rigorous, as the case may be.

Circular, No. 10.

DATED CALCUTTA, THE 22ND AUGUST, 1866.

Mr. Justice Trevor.

The Court request that, in holding their Jail deliveries for September next, Sessions Judges will make arrangements for trying, as far as possible, at the commencement of their Sessions, all cases in which murder (Section 302, Penal Code) is one of the offences charged, as it is important that the orders of the High Court in all cases, in which capital sentences have been passed, should be obtained and communicated to the Sessions Courts before the commencement of the Vacation.

2. The High Court expect that no Sessions Judge will close his Court for the Dusserah Vacation as long as the orders of the High Court regarding such capital sentences have not been received.

Circular, No. 11.

DATED CALCUTTA, THE 1ST OCTOBER, 1866.

Mr. Justice Trevor.

It having come to the Court's knowledge that the Register of Warrants, prescribed by the Sudder Nizamut Court's Circular Order, No. 167,* of the 15th of May, 1835, has in many districts fallen into disuse, the High Court desire me to call your attention to the above order, and to request that you will in future carefully keep up the prescribed Register, column 6 being omitted, as it is no longer required. Instances have lately occurred of prisoners

---

* No. 167.

DATED THE 15TH MAY, 1835.

To the Commissioners of Circuit, Sessions Judges, Magistrates, and Joint Magistrates, Lower and Western Provinces.

I am directed by the Court to transmit, for your guidance the annexed form of a Register of Warrants, to be in future kept up in your office. In adopting this form, you will be guided by the rules laid down in the note thereto annexed.

1	2	3		4		5			6			7
Name of Person.	Date of Sentence.	Term of Imprisonment.		When the sentence will have expired.		Warrants when received back from Jailor or Magistrate.			Warrants when returned to the Nizamut Adawlut.			Memo.
		Years.	Months.	Month.	Date and year.	Month.	Date.	Year.	Month.	Date.	Year.	
Gharum, ...	10th Apl. 1862.	7	0	Apl.	10th 1833.	Apl.	12th	1833	...	...	..	Column 6 to be omitted in Magistrate's Register.
Jubba, ...	7th Augt. 1833.	Death.		...	...	Sep.	10th	1833	Sep.	12th	1833	
Janee,.....	5th Sept. 1833.	Release.		.	...	Sep.	12th	1833	...	.	.	
Pema,.....	27th Feb. 1833.	0	6	Aug	27th 1833.	Sep.	28th	1833	...	...	...	
Rambuxsh, ...	3rd Feb 1833.	0	3	May	27th 1833.	May	29th	1833	...	...	...	

being illegally detained in Jail after their term of sentence had expired, which would not have happened, if the Registers of Warrants had been properly kept up.

Circular, No 12.

DATED CALCUTTA, THE 19TH NOVEMBER, 1866.

Mr. Justice Trevor.

The Court is pleased to issue the following instruction for the guidance of Sessions Judges in the preparation of Annual Statement, No. 10, and of Magistrates in that of Annual Statement, No. 6, of the average duration of cases tried by them; to wit, that cases postponed under Section 388 or Section 389 of the Code of Criminal Procedure in consequence of the accused being of unsound mind, and therefore incapable of entering on their defence, should not be included amongst those on which the average is calculated, inasmuch as their postponement is caused by circumstances over which the Courts can have no control.

Circular, No. 13.

DATED CALCUTTA, THE 5TH DECEMBER, 1866.

To all Justices of the Peace in the Lower and Extra Regulation Provinces of Bengal.

The Chief Justice.
Mr. Justice Trevor.

In continuation of Circular Order, No. 8, dated the 31st July last, requesting the attention of Justices of the Peace to the copy of an order which accompanied it, requiring that European British subjects who, during the months of July, August, September, October, and November last, should be committed or bailed for trial before the High Court, should be tried at the usual place of sitting of that Court in Calcutta; and if not bailed, should be committed for intermediate custody to the Presidency Jail; and if bailed, should be bailed, for trial at such usual place

of sitting as aforesaid—the Court are pleased to extend the operation of the said order until further notice.

Circular, No. 14.

DATED CALCUTTA, THE 6TH DECEMBER, 1866.

Mr. Justice Trevor.

As there is reason to believe that public inconvenience has frequently been caused by the practice, said to prevail in several districts, of summoning Police Officers as witnesses, without reference to their immediate superiors, the Court are pleased to direct that, whenever a summons to appear as a witness in a criminal case is issued to an Officer of Police, it be served upon such Officer through the Superintendent of the District, or the Assistant in charge of the Sub-Division to which he may belong.

Circular, No. 1.

DATED CALCUTTA, THE 12TH FEBRUARY, 1867.

The Chief Justice.
Mr. Justice Trevor.
" " Loch.
" " Bayley.
" " Norman.
" " L.S.Jackson.

The Court are pleased to issue the following instructions relative to the procedure enjoined in Chapter XII. Act XXV. of 1861.

2. Section 226 of the Code of Criminal Procedure enacts that, when evidence has been given before a Magistrate, which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent, by the Magistrate, for trial before the Court of Session. The Section then proceeds to provide for a case in which the accused person is a European British subject.

3. Section 225 enacts that, when a Magistrate finds that there are not sufficient grounds for committing the accused person to

take his trial before the Court of Session, or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put upon his trial before himself, in which case he shall proceed under Chapter XIV. of the said law.

4. By Section 40 of the Penal Code, the word 'offence' denotes a thing made punishable by that Code; and by Section 6, every definition of an offence shall be understood subject to the exceptions contained in the Chapter entitled 'General Exceptions.' If, therefore, the evidence given before a Magistrate upon a preliminary enquiry relating to an offence exclusively triable by a Court of Session, satisfies him that the act or omission charged against the accused is brought within one of the general exceptions of the Penal Code, the Magistrate would be wrong in committing the accused person for trial. This would be the case whether the evidence by which the Magistrate is so satisfied, is that which arises from the examination and cross-examination of witnesses called in support of the prosecution, or of witnesses summoned by the Magistrate on behalf of the accused under the provisions of Section 207 of the Code of Criminal Procedure. By the last-mentioned Section, it is left entirely to the discretion of the Magistrate upon such preliminary enquiry either to summon or not witnesses offered on behalf of the accused person to answer or disprove the evidence against him.

5. The discharge of a prisoner under Section 225 of the Code of Criminal Procedure does not amount to an acquittal, and the accused would be liable to further proceedings, if necessary; and under Section 435 of the same Code, the Court of Session may order him to be committed.

(*See Circular Order, No.* 7, *dated* 18*th July*, 1867.)

Circular, No. 2.

DATED CALCUTTA, THE 25TH MARCH, 1867.

The Chief Justice.
Mr. Justice Trevor.
" " Bayley.
" " Loch.
" " L.S.Jackson.

The High Court, having reason to believe that some misapprehension exists amongst Magistrates as to the meaning of the term "immediately subordinate" in Section 434 of the Code of Criminal Procedure, and consequently, as to the power under that Section of the Magistrate of the District to call for and examine the record of a case tried by an Officer subordinate to him, who exercises the full powers of a Magistrate—are pleased to circulate the following instructions for the guidance of all Officers:—

The Court do not interpret the words "*immediately* subordinate" in this Section as having any reference to the *judicial* powers vested either in the Courts described as subordinate, or in the Court to which they are described as subordinate. They consider that all Magisterial Officers in a District, except the Magistrate of the District, are, within the meaning of this Section, *immediately* subordinate to the Magistrate of the District, whatever their judicial powers may be. It follows that, in the opinion of the High Court, the Magistrate of the District has power to call for and examine the record of any Magistrate within his District for the purpose of satisfying himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such Magistrate.

He is not, however, competent to comment upon the proceedings of an Officer exercising the full powers of a Magistrate, or to point out what he considers to be errors of law or irregularities. If he is of opinion that the sentence or order is contrary to law, he should forward the case through the Sessions Judge for the orders of the High Court.

Circular, No. 3.

DATED CALCUTTA, THE 25TH MARCH, 1867.

Mr. Justice Trevor.

As some misapprehension seems to have existed in regard to the warrants prescribed by Sections 383, 384, and 386 of the Code of Criminal Procedure, the Court is pleased to issue the following explanations and instructions, with a view to the proper observance of the provisions of the Code in the preparation and issue of such warrants :—

2. Sections 383 and 384 provide, in cases in which the sentence of the Sessions Court is confirmed by the High Court, as well as where it does not need to be referred for such confirmation, for the issue *by the Court of Session* of warrants to Magistrates, or other officers in charge of Jails, to cause the sentence passed to be carried into execution. Under Circular Order, No. 10, dated 20th November, 1865, which was based upon the expressed intention of Government to appoint officers other than Magistrates to the special charge of large Jails, *such* warrants should be addressed to the officer in charge of the Jail, instead of to the Magistrate of the District. But the law in force now does not require that the Sessions Judge should issue a separate warrant of this nature in the case of each prisoner sentenced ; a single warrant should include all who are involved in one sentence.

3. By Section 386, the *Magistrate, or other officer in charge of the Jail*, is required, in executing the warrant of the Sessions Judge referred to in the foregoing paragraph, in every case of imprisonment under the sentence of the High Court or of a Court of Session, to issue his warrant to the Jailor, stating the offence of which the accused person has been convicted, and the period during which he is to be imprisoned, and the nature of the imprisonment. As regards warrants of this nature, a separate warrant should be issued to the Jailor for each prisoner, and it should accompany the prisoner to whatever Jail he may

be transferred. It is to such warrants also, and not the warrants issued by the Sessions Court, that the provisions of Circular Order, No. 8,* dated 15th August, 1859, must be considered to apply under the present procedure.

Circular, No. 4.

DATED CALCUTTA, THE 12TH JUNE, 1867.

To the Sessions Judges and Magistrates of 24-Pergunnahs, Midnapore, Cuttack, Jessore, Backergunge, Tipperah and Chittagong, and to the Magistrates of Howrah, Balasore, Pooree, and Noacally.

The Chief Justice.
Mr. Justice Loch.
" " Norman.
" " L.S.Jackson.

I am directed to state for your information, that it has been recently ruled by the High Court that a Magistrate has no authority to release salt seized under circumstances in which the seizure is found, on the trial of an offender, to have been warranted by Section 18, Act VII. of 1864, of the Bengal Council.

---

* CIRCULAR, No. 8.

DATED 15TH AUGUST, 1859.

H. T. Raikes, Esquire.

The Court, in compliance with a request made by the Inspector General of Jails, Lower Provinces, and in order to remedy some inconveniences experienced from the practice of including several prisoners in one and the same warrant for execution of sentence, which the provisions of the Circular Orders, marginally* noted, do not sufficiently meet, are pleased to order as follows:—

* 292 May 14th, 1824,
294
295 } June 18th, Ditto.

2. (1.) In every instance, where more than one prisoner is sentenced by one and the same order of the Nizamut Adawlut or Sessions Judge to transportation, or to banishment, there shall be a separate warrant delivered on account of each prisoner to the Jail Darogah of the district Jail, to be forwarded to the Magistrate of the district to which a prisoner may be ordered by Government to be sent, or to the Superintendent of the Alipore Jail, as the case may be.

(2.) A copy of this warrant shall be delivered to each prisoner.

(3.) In the transit of a prisoner from the custody of one Magistrate to that of another, the original warrant and the said copy of warrant shall be carefully transmitted along with the prisoner.

(4.) On the expiration of sentence, or death before expiry of sentence, of a prisoner, the said warrants, original and copy, shall be taken and returned to the Magistrate of the district, whence the order for execution of sentence issued.

Circular, No. 5.

DATED CALCUTTA, THE 12TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

The Judges of the High Court have directed me to enclose, for your information and guidance, new forms of the Sessions Statements,* Nos. 4 and 5, which are to be substituted for the forms in present use, the directions contained in Circular Order, No. 19, dated 31st December, 1861, of the late Sudder Court, being modified accordingly.

2. Copies of the new forms will be supplied to you from time to time on your requisition, on application to the Registrar; and you are requested to take care that your supply of them may not run short, as it is the wish of the Court that no other forms should be used.

3. I am to convey to you the following instructions for the use of the forms.

They are both, you will observe, in Europe paper of folio size and on separate leaves. It is intended that one of the forms should be used for each trial reported, the particulars indicated in the several columns being thus exhibited on the first page, and paper of the same size being pasted on where the nature of the case requires further space.

4. On the reverse, or turn over, will be written an abstract statement or description of the case, setting forth briefly but clearly the circumstances, the nature of the evidence, the mode of trial, and any matter which calls for special notice, including always (in case of offences punishable with death) the

* For new forms of Nos. 1, 2 & 3, see Circular Order, No. 4, dated 6th May, 1868. No. 5 has been discontinued by Circular Order, No. 6, dated 9th September, 1868. (Q. V.).

explanation referred to in the concluding part of Section 380, Code of Criminal Procedure.

5. The Court will expect that these abstracts will be carefully prepared by the Judges themselves, and not entrusted to subordinates. Whenever it is necessary to add paper to the form, the additional paper must be of the same description and size as that on which the form is printed.

6. The charge, as entered in column 5 of the Abstract Statement, need not contain the whole of the charge *verbatim*, but must be given with sufficient fulness and certainty, omitting merely formal parts, and it will be borne in mind that these statements are submitted with a view to enable the Court to exercise the power of revision vested in it under the XXIXth Chapter of the Code of Criminal Procedure.

7. In the 6th column, if the accused be convicted on the charge as laid, the entry need be only "as charged," but if he be convicted on an amended charge, that charge should be shortly stated and the Section of the Indian Penal Code, which applies, referred to.

8. In the 7th column it should be stated whether the Jury were unanimous in their verdict, or what the majority was, also the names of the Jurors should be given, together with any recommendation to mercy or other special matter contained in the verdict. And in trials not by Jury the opinion of the Assessors should be given *seriatim*.

9. The several leaves comprising the trials, at any one Jail delivery, should be made up within one outside wrapper, of which a specimen is also forwarded.

10. The forms in hand should be used, as far as possible, for office copies, and you are requested to report at the expiration of three months the extent to which the time of Clerks

in your Office has been economized by the plan now introduced.*

---

* The following demi-official was addressed to all Sessions Judges in continuation of the above Circular Order.

DATED CALCUTTA, THE 24TH SEPTEMBER, 1867.

I am desired by the Judges of the 5th Bench to call your attention to the Circular Order, dated 12th July last, No. 5, which relates to the mode in which the new abstract statements of Sessions trials are to be prepared. It could hardly have been supposed, that misunderstanding could occur on this point; but as some Zillah Judges appear to have wholly failed to apprehend the true meaning of the Circular and of the forms themselves, it has been thought better to offer a few words of guidance upon the subject, which, as to those Judges who have carried out the order correctly, will have only the effect of confirming them in the right practice.

The tabular or front-side of the statement No. 4, for instance, is not meant to contain a regular indictment; but the charge in Abstract; *e. g.*

MURDER of Opshito Dass. Section 302, Indian Penal code; or

THEFT in a dwelling house (of Ali Kurim), Section 380, Indian Penal Code; or

GIVING FALSE EVIDENCE in a judicial proceeding, viz., in a trial before the Magistrate of Hooghly, in having stated, "I saw the prisoner A. B. strike C. D.," &c. *(Not giving the false evidence in full, but so much of it as will make the abstract of the charge intelligible)* under Section 193, Indian Penal Code—and so on.

Column 6 in like manner is to contain shortly the offence proved. If that offence be the offence charged, the words, "as charged," will be sufficient; if some other offence, then it is to be CONCISELY given as "culpable homicide under Section 340, Indian Penal Code," or "theft under Section 379," or "giving false evidence otherwise than in a judicial proceeding, Section 193," and so on.

In column 7, it is not necessary to say at length that the Jury unanimously find that A B. is guilty of the offence specified viz., that he has &c., &c., and that he has thereby, &c., &c.; but it should be stated that "the Jury (or a majority consisting of 6 out of 7, or as the case may be) found the prisoner guilty of the first charge, and not guilty of the second," or as the case may be—the dissentient Juror being marked with the letter D. opposite to his name—and under this the Judge will write his concurrence in, or disapproval of the verdict, but without giving his reasons in this place, and then will follow the sentence shortly stated.

Where the trial has not been by Jury, the opinions of the Assessors should be given so as to show the view of each, the reasons not being stated at full length, *e. g.*

"The Assessor Ramlol Parre considered the charge made out; he remarked "that the witnesses spoke with an air of truth, that there was no reason to "suppose the charge malicious and, that the prisoner's alibi wholly broke "down."

"The Assessor Gholam Ghous also thought the charge proved; but said "that, the accused being a very young man, some allowance might be made, "&c."

These particulars may generally be filled in by an intelligent Clerk; a little instruction may at first be necessary; but the officer, if he is fit for his situation, ought soon to learn to do the work without assistance A neat, not diffuse hand-writing is essential for the mechanical portion of the work;

much time and trouble is saved to the Superior Court by attention to this matter, and work of a different character will not be tolerated.

The abstract statement on the reverse side should be prepared by the Judge himself, unless he has the good fortune to possess a very capable Head Clerk; but even the best ministerial officer can scarcely convey the pith of a case with the same force and condensation as the officer who has tried it.

It is not to contain the Judgment or the summing up, nor any argument, nor a repetition of the charge, but simply the leading circumstances in evidence, the view which the Judge has taken of the case, and, in some instances, the reason for passing a particular sentence, *e. g.* for not inflicting capital punishment, or for passing a sentence apparently inadequate

But the statement should be so condensed as not in ordinary cases to exceed the space allowed on the turn-over.

The object of the Court in reviewing the abstract statements is not to criticize the performance of the Court of Sessions, but to ascertain that the trial has been regular, the conclusion just, and the sentence warranted by law.

It is considered that minute objections, whether of law or of fact, may be properly left to appellants; and that, in revision, it is only needful to know that substantial justice has been done.

But the Sessions Judges will not for this reason omit to make their proceedings on the trial full, complete and formal, as far as form implies deliberation and attention to the rights of the accused as well as those of the prosecutor.

Some of the Zillah Judges have referred to the preparation of these abstracts as an additional duty cast upon them. It is believed, however, that, after a little practice, the trouble will not be great. It may also be observed that many of the Judges may relieve themselves by reducing the length of their summing up or directions to the Jury, which are frequently given at quite needless length. The printed forms are invariably to be employed, and the ruling and manuscript preparation of written headings is strictly forbiddon.

You are requested to be good enough to acknowledge demi-officially the receipt of this Memorandum and to take care that it is carefully read and thoroughly understood by your Clerks.

*No. 4.

Abstract Statement of Prisoners convicted before the Court of Sessions at the Jail Delivery of Zillah ——— in ——— 186 .

1	2	3	4				5	6	7
No. of Case, date of Commitment, and name of Committing Officer.	No. of accused.	Names of the accused.	Accused Persons.				Charge Exhibiting Section I. P. Code or other penal law by which the offence is made punishable.	Offence established.	Verdict of Jury or Opinion of Assessors & sentence passed on the accused persons.
			Sex.	Age.	Religion and Caste.	Occupation.			

* The form in use is of folio size. See page 100.

Circular, No. 6.

DATED CALCUTTA, THE 18TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S. Jackson.
" " Macpherson.

The Court are pleased to cancel their Circular Orders—

No. 6, dated 11th March, 1863.
" 16, " 16th June "
" 5, " 28th March, 1866.

and to issue the following instructions which are to be observed in framing charges under the Indian Penal Code.

2. In drawing up charges for offences falling under any of the Sections of the Indian Penal Code, which contain special exceptions, the provisions of Section 237 of the Code of Criminal Procedure must be strictly attended to, except when the charge is for—

(*a.*) Murder (punishable under Section 302 of the Penal Code), or

(*b.*) Culpable homicide not amounting to murder (punishable under Section 304 of the Penal Code), or

(*c.*) Voluntarily causing grievous hurt (punishable under Section 325 of the Penal Code).

3. In drawing up charges for murder, the form given in Section 243 of the Criminal Procedure Code is to be followed: and in drawing up charges for culpable homicide not amounting to murder, the form given in Section 239; and in drawing up charges for voluntarily causing grievous hurt, the form given in Section 239 of that Code.

4. In cases where exceptions (of which provocation is an instance) are negatived, it is not necessary to negative provisoes which can exist only where the exceptions exist.

Circular, No. 7.

DATED CALCUTTA, THE 18TH JULY, 1867.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

In modification of Circular, No. 1, dated the 12th February last, the Court are pleased to issue the following instructions for the guidance of Criminal Authorities.

2. The High Court of Judicature hereby declares that the Circular Order No. 1, dated 12th February, 1867, is not to be taken as applying to cases in which, upon the preliminary enquiry relating to an offence exclusively triable by a Court of Session, the question arises whether the accused, at the time when he did the act with which he is charged, was of unsound mind. In respect of such cases, the following separate instructions are issued, and this Circular is to be read with the Circular Order cited.

3. Section 226, Code Criminal Procedure, does not positively require the commitment of the accused is such cases, because it cannot be said that, where it clearly appears that the accused was of unsound mind at the time of committing the act in question, the evidence appears to be sufficient for conviction. This Section, however, does not provide that the accused shall not be committed in any other case.

4. Section 225 provides for the discharge of the prisoner when a Magistrate finds that there are not *sufficient grounds for committing him to take his trial*, and in cases which fall under the other general exceptions of the Penal Code, there clearly would be no grounds for committing the accused, because, on proof of the facts, he would be entitled to an acquittal and release.

5. But in the particular case under consideration it is otherwise, for when a person accused is acquitted on the ground of insanity, the Jury or Court is to find specially whether he committed the act or not, and if he be found to have committed it, he is to be kept in safe custody (Sections 393 and 394, Code

Criminal Procedure). There are, therefore, good grounds for committing such person for trial, and his discharge is not directed by the 226th Section.

6. Commitment, therefore, seems discretional with the Magistrates in such cases, and, in the opinion of the Court, there can be no doubt as to the propriety of committing the accused, in order to the taking of proceedings under Sections 393 and 394 of the Code of Criminal Procedure.

Circular, No. 8.

DATED CALCUTTA, THE 7TH AUGUST, 1863.

Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

The Court having taken into consideration the form of charge for cases of rape given in letter, No. 876, from the Officiating Registrar to the Sessions Judge of Moorshedabad, dated 20th September, 1864, published in 1, Weekly Reporter, Criminal letters, page 2, are pleased to cancel the instructions there given, and to direct Committing Officers to draw the charge in the following words :—" That ————, on or about ————, at ————, committed rape upon the person of ————, and that he has thereby committed an offence punishable under Section 376 of the Indian Penal Code."

Circular, No. 9.

DATED CALCUTTA, THE 7TH AUGUST 1867.

To Officers in Charge of Jails.

Mr. Justice Loch.
" " Bayley.
" " L.S. Jackson.
" " Macpherson.

In consequence of different modes of Procedure being followed in different districts, the Court are pleased to lay it down, as a general rule, that petitions of appeal against the sentences or orders of Sessions

Judges, presented to Officers in charge of Jails, be forwarded by such Officers direct to the Registrar of the High Court of Judicature, intimation of the fact being at once given in each instance and in the annexed form to the Judge whose sentence or order is appealed against.

2. Petitions of appeal must be presented within the period allowed for appeal, as provided in Section 413 of the Criminal Procedure Code, and must be accompanied by a copy of the sentence or order appealed against, as provided by Section 416.

3. Petitions, not presented in time or not accompanied as above, are not to be transmitted to the Registrar, but to be returned to the petitioner, with an endorsement by the officer in charge of the Jail showing the date of presentation.

To the Sessions Judge of

The undersigned begs to report, for the information of the Sessions Judge, that an appeal by the prisoner
against the Judge's sentence or order, dated
and noted at foot, has this day been presented to the Officer in charge of the Jail, and has been forwarded to the High Court, as required by Section 418 of the Code of Criminal Procedure.

Officer in charge of Jail.

(See in continuation, Circular Order, No. 5, dated 28th May, 1868.)

Circular, No. 10.

DATED CALCUTTA, THE 28TH AUGUST, 1867.

Mr. Justice Loch.
" " L S.Jackson.

The Court request that in holding their Jail Deliveries for September next, Sessions Judges will make arrangements for trying, as far as possible at the commencement of their Sessions, all cases in which murder (Section 302 of the Penal Code) is one of the offences charged, as it is important that the orders of the High Court in all cases in which

capital sentences have been passed, should be obtained and communicated to the Sessions Courts before the commencement of the vacation.

2. The High Court expect that no Sessions Judge will close his Court for the Dusserah vacation as long as the orders of the High Court regarding such capital sentences have not been received, or as long as any Criminal business remains undisposed of which can be heard, and provision must be made for carrying out all orders of the High Court reversing or modifying sentences.

Circular, No. 11.

DATED CALCUTTA, THE 2ND SEPTEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The following Rules are laid down by the High Court of Judicature for careful observance by Zillah Judges.

I.—The "examination of the accused person," which is directed by Section 366 of the Code of Criminal Procedure, "to be given in evidence at the trial," should be put in and read as part of the case for the prosecution *before the accused person is called upon to enter on his defence.*

So also should be the examination of a medical witness which the Court is directed (Section 368) to "receive as *primâ facie* evidence;" and the examination of a witness in a case in which it "may be given in evidence" under Section 369 (if it is considered desirable on the part of the prosecution to put in such examination).

But before examinations are received as evidence under any of these three Sections, care must be taken to see that they are in proper form and duly attested, or otherwise strictly proved. And under Section 369, the examination cannot be given as evidence unless it is proved that the witness, whose examination it is proposed to put in, is dead, or the Court is satisfied that for sufficient cause his attendance cannot be procured. (See case of Bheekun Doss, Weekly Reporter, Volume VII, page 114, Criminal Rulings).

II.—Such examinations when so received are to be detached from the proceedings in the preliminary enquiry and *annexed* to the *record* of the TRIAL.

III.—In the case of the Queen *versus* Mussamut Niruni and Monirooddeen (Weekly Reporter, Volume VII, page 49, Criminal Rulings), the Court held that an examination of the accused, which had not been recorded and authenticated in the mode prescribed by Section 205 of the Code of Criminal Procedure, was not admissible in evidence at the trial. Such defective examinations ought not to be placed in the record unless the prosecution should have taken exception to the order of the Court refusing to admit it, in which case, if the proceedings be submitted to the High Court, it may be transmitted separately with a Memorandum of the Judge's order of rejection.

Circular, No. 12.

DATED CALCUTTA, THE 11TH SEPTEMBER, 1867.

Mr. Justice Loch.

I am directed to request that in submitting to the Court the return prescribed in the Circular Orders, noted on the margin,* you will add a column headed "number of persons sentenced to transportation for periods exceeding 14 years."

No. 10 of 14th November 1862.
No. 12 of 5th June, 1863.

Circular, No. 13.

DATED CALCUTTA, THE 14TH DECEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.

The cases of *escaped prisoners* should not be regarded or returned as pending upon the files of Sessions Judges, as such persons cannot be said to be awaiting trial.

Circular, No. 14.

DATED CALCUTTA, THE 16TH DECEMBER, 1867.

Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

The form herewith enclosed is to be substituted for that hitherto used for the Annual Register of Fines, No 7, in Judges' and Magistrates' Returns.

The Court think it unnecessary to require the detailed Statement of Fines heretofore submitted. The Register should, however, be kept up in the Vernacular both in the Judge's and Magistrate's Office; and Sessions Judges, in submitting the Annual Returns, should state that they have examined the Registers in their own and in the Offices of the Magistrate and his subordinates, and certify to their being properly kept up. An explanation will be called for when the outstandings of any year are excessive.

No. 7.

Annual Return of Fines for the District of

Amount unrealized from former years.	Amount of Fines imposed during the year 186 .	Total.	Amount awarded as compensation under Section 44, C. C. P.	Amount realized on account of former years.	Amount realized on account of the year	Total realized.	Amount paid as compensation under Section 44, C. C. P.	Amount credited to Government.
Amount unrealized of fines imposed in ...		1867						
Ditto ditto ...		1866						
Ditto ditto ...		1865						
Ditto ditto ...		1864						
Ditto ditto ...		1863						
Ditto ditto ...		1862						
Total unrealized...								

Circular, No. 1.

DATED CALCUTTA, THE 10TH JANUARY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

Considerable inconvenience having been experienced in consequence of Sub-Assistant Surgeons or Native Doctors at Sub-Divisions being summoned from their Stations without the knowledge of the Civil Surgeon of the District, to whom they are subordinate, for the purpose of giving evidence in cases in which they have held *post mortem* examinations, or when their attendance may be otherwise required by the Judicial Authorities, the High Court are pleased to direct that in future all summonses on these Medical Subordinates be served through the Magistrate or other Executive Head of the District to enable him, in communication with the Civil Surgeon, to make arrangements for the conduct of their medical duties during their absence.

Circular, No. 2.

DATED CALCUTTA, THE 6TH APRIL, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L S Jackson.
" " Macpherson.

In a recent case certain questions as to sentences of whipping and the maximum of punishment which can be awarded under Section 46 of the Code of Criminal Procedure, were referred to a Full Bench of this Court for determination.

The attention of all Officers entrusted with the administration of Criminal Justice is called to two points which have been decided by the majority of the Judges composing the Full Bench Court.

It has been decided—

I.—That when a person who has not been "previously convicted" (using the term in the sense in which it is used in Section 4, Act VI of 1864) is convicted at one time of two or

more offences, it is illegal to sentence him to whipping for one of these offences, *in addition* to imprisonment or fine for the other or others; but that it is not illegal to sentence him to *one whipping in lieu of all other punishment.*

II.—That when a person who has been "previously convicted" is convicted at one time of two or more offences, he may be punished with one, but only *one* whipping, *in addition to* any other punishment to which, under Section 46 of the Code of Criminal Procedure, he may be liable.

The Court take this opportunity of impressing upon all Officers vested with power to pass sentences of whipping, that such sentences should be passed with the utmost caution and with due deliberation; and that, if any doubt is felt either as to the legality or propriety (in any particular case) of passing a sentence of whipping, such a sentence ought not to be passed.

Circular, No. 3.

DATED CALCUTTA, THE 16TH APRIL, 1868.

The Chief Justice.
Mr Justice Loch.
" " Bayley.
" " L. S. Jackson
" " Macpherson

The Court direct that in future blank Statements be not sent up with the quarterly Returns, as they only cumber the Office. Whenever, therefore, the Whipping Statement or the Statement of Solitary Confinement is blank, a note to that effect will be entered at the back of the Statement, Nos. 1 to 5 in the column of remarks, and the blank Statements will not be sent up.

Circular, No. 4.

DATED CALCUTTA, THE 6TH MAY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

Referring to the periods at which Sessions of Jail Delivery now take place, and to the various changes which have been introduced by the Code of Criminal Procedure, and the Circular Orders of this Court, the

returns at present submitted by the Sessions Judges are no longer perfectly adapted to the purpose for which they are intended, information on some important points not being found in them at all, and the statements being on the other hand encumbered with figures which may be found in the Magistrates' returns, and which it is not necessary to repeat. The rules relating to the holding of the Criminal Sessions also appear to be susceptible of improvement.

The High Court has consequently determined that the returns of the Court of Session, not relating to its appellate business, should be submitted at the close of each actual Sessions, and should be so altered in form as to exhibit more conveniently the result of the Sessions operations.

But as the Court of Session must frequently sit for the purposes of appellate jurisdiction in order to the prompt decision of appeals and petitions coming before it, the returns of appellate business must continue to be submitted periodically; and the Court are of opinion that such statements may now be required not oftener than quarterly in the same manner as the Civil returns are now transmitted. The form of these returns has also been modified.

The statements, therefore, which the Courts of Session will hereafter submit (except the annual statements which will be dealt with in a separate order) are as follows:—

I. Quarterly.

I. A general abstract of the business which has come in each quarter before the Court of Session in its appellate or superintending capacity. In this statement it is intended that appeals and applications of every kind made to the Court of Session should be exhibited. The form is so simple as to require no explanation.

II. Quarterly.

II. This statement, which is to accompany No. I, will exhibit the result of appeals and applications under Section 434 in detail, showing how the decisions and orders of each Magisterial Officer have been affected. This form is also exceedingly simple.

Appeals in Criminal trials include such appeals under Section 409, Code of Criminal Procedure, and also under Section 410. Appeals in other cases include appeals against orders to give security for good behaviour and any appeals allowed by law against orders not being convictions in Criminal trials. Applications and requisitions under Section 434 have been entered under a separate head, because it has been thought expedient that the extent to which this provision of the law has been resorted to should be recorded, whether the Court of Session has acted on application or of its own motion. Such application, when made by petition to the Court and refused, will be entered in the same column as appeals rejected. When the record has been called for, but the proceedings have not been referred for the orders of the High Court, the case will be entered with orders affirmed. When such reference has been made the case will appear under "orders reversed."

III, IV and V Jail delivery Statements.

III, IV, and V, will be submitted within a week after the close of each Sessions. Nos. IV. and V. are the same as the present returns bearing those Nos.

In the form which accompanies this C. O.

No. III. is designed to exhibit the results of one Sessions at a single view. In it will be shown the cases of all accused persons who were in Jail or on bail at the commencement of the Sessions, awaiting trial before the Court of Session, and the mode in which each case and person was disposed of.

The High Court has reason to believe that trials are sometimes too lightly postponed. It cannot be too often pointed out that a further detention of an accused person in Jail for perhaps two months is in itself no trivial infliction, and is only justified when there is apparently a good case against the prisoners, and when the Judge is satisfied that, for the ends of justice, it is necessary to postpone the trial.

The High Court, therefore, directs that at each periodical Session all persons awaiting trial be brought before the Judge in

open Court, and if the Government prosecutor should not be prepared to go to trial in any particular case, that he should be required to show cause properly supported why the accused should not be acquitted and released, the accused himself being also heard in answer to such cause shown. When any trial is postponed, the ground of postponement is to be shortly stated in the column of "remarks" in statement No. III.

Offences are to be stated as concisely as possible, with the Section of the Indian Penal Code (or other law) applicable, in the form given.

When solitary confinement is awarded, the fact (specifying the period) is to be stated in red ink in the column of remarks opposite the name of the prisoner so sentenced.

A sentence passed in addition to any other sentence in a different case passed at the same Sessions, or one which is to take effect on the expiration of another sentence which the prisoner may be undergoing, is to be similarly indicated.

Cases will be entered in the order of trial, so as to enable the Judge's clerk to place each case in the statement at the conclusion of the trial.

The smaller form given on the reverse side of this statement is intended to show the number of witnesses and others, who have come before the Court at each Sessions, and the time occupied in disposing of the cases collectively.

The existing rule, under which in all districts the Sessions are to be held in each alternate month, is abrogated, and the number of Sessions and the time of holding them, will now be left to the discretion of each Sessions Judge, to be determined, according to the varying circumstances of his district, and the state of business therein.

The Judge will accordingly in the first week of December in each year fix the number of Sessions to be held in the year following, and the dates on which respectively they are to begin (the number varying with the estimated or average number of trials, and not being less than six or more than ten in each year) and the Magistrate of the district in communication with all

the Subordinate Magistrates who exercise the power of committing to the Sessions and obtaining from them the particulars of all cases committed by them, will prepare and submit to the Zillah Judge, two days before the commencement of each Sessions, a Calendar of all such cases in the form annexed, which will be the basis of the Sessions Judge's Calendar (Statement No. III.)

The document now misnamed a Calendar will be discontinued, and the names of the witnesses should be placed on the back of the charge sheet. The observations or judgment of the Magistrate in committing the prisoner will always go up in original with the record, where, with the original depositions, they should be read by the Judge before the trial. Abstracts of the evidence are considered unnecessary, and they are at times misleading.

The Magistrates will be careful to arrange their commitments with a view to the trials taking place at the earliest or next ensuing Sessions, in order to avoid the needless detention of accused persons for prolonged periods.

Whenever a commitment is made, intimation will be immediately given to the Court of Session, through the Magistrate of the District, by a letter in the annexed form. It will be unnecessary for the Court of Session to send any answer fixing a date for the trial. But the Judge will be guided by the information which he thus receives in estimating the time which it will be necessary to devote to the Criminal Sessions, and consequently at what period he will be able to take up civil business thereafter.

Prosecutors and witnesses will be bound over to appear "at the next Criminal Sessions commencing on ."

But it will be the duty of the Magistrate, in order to prevent hardship and unnecessary detention to such persons, so to arrange the coming on of cases before the Court of Session that such parties may not be brought from their homes to the Sudder Station, before they are actually required, and that they should have written notice of the specific date on which their attendance will be necessary, and it should be carefully explained that failure to attend will be severely dealt with.

The directions herein contained for committing Magistrates are to be observed, so far as they are applicable by Civil Courts and other authorities committing persons for trial at the Sessions.

The rules now communicated will take effect from the 1st July next, and the Zillah Judges will be good enough to fix the Sessions for the latter half of the year in the first week of June. All such arrangements for the Sessions (both on the present occasion and afterwards, yearly) are to be immediately reported to this Court for approval, but may be carried out unless the disapproval of the Court be communicated.

Form of Letter to be sent by Committing Officers through the Magistrate of the District to the Judge.

From

Magistrate of

To the Sessions Judge of

Sir,—I beg to report that I have this day committed to take his trial before the Court of Sessions the person named in the margin on the charge specified below.

I have, &c.,

A. B.,

Magistrate (as the case may be).

Charges.

1

2

(Form of District Magistrate's Calendar.

Calendar of accused persons for trial before the Court of Session.

Sessions of 186

No of case.	Committing Officer.	No. and Name of accused.	Charges and Section I. P. C.	Date of offence.	Date of apprehension or appearance to summons.	Date of commitment.	In Jail or on Bail.

SESSIONS STATEMENT No. I. *(Quarterly)*

Abstract of business before the Court of Session of the District of ———— *in its Appellate Jurisdiction for the* —— *Quarter of* 186

Nature of business.	Pending on	Instituted during the quarter of	Total to be disposed of.	Total disposed of.	Pending on the of	Remarks.
Appeals in criminal trials						
Appeals in other cases						
Applications under Section 434, C. C. P.						
Other applications						

SESSIONS STATEMENT No. II. *(Quarterly.)*

Result of appeals and applications with reference to the several Magistrates in the District of ——————

for the —— Quarter of 186— .

Names of Magistrates, &c.	Pending at close of last quarter.	Instituted during the quarter.	Total to be disposed of.	Appeals rejected under Section 417, C. C. P., and petitions refused.	Decisions confirmed on appeal and applications not reported.	Reversed, modified, or reported to the High Court.	Total disposed of.	Total pending at end of month.	Remarks.
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									
Mr.									
Appeals in criminal trials									
Appeals in other cases									
Applications under Section 434, C. C. P. ..									

SESSIONS STATEMENT No. III. *(To be submitted after each Sessions.)*

PART I.—*Calendar of accused persons committed or remaining for trial before the Court of Session of the District of* ——— *at the* ——— *Jail Delivery held in the month of* ——— 186

No. of Case.	Date of Commitment.	Name of Committing Magistrate.	Name and Number of accused.	Nature of Offence.	Disposal of the accused.	Date of Order.	Remarks.

PART II.—*Abstract of Business at the Sessions of* ———— 186—, *District of* ————

Date when Sessions		Number of days of sittings.	Number of Persons examined.	Number of Accused Persons				Number of Cases	
Commenced.	Ended.			For trial.	Convicted.	Acquitted.	Not tried.	Tried.	Postponed.

Circular, No. 5.

DATED CALCUTTA, THE 28TH MAY, 1868.

The Chief Justice.
Mr. Justice Loch.
" " Bayley.
" " L.S. Jackson.
" " Macpherson.

In modification of Circular Order,* No. 94, dated the 6th May, 1862, the Court direct that, as a general rule, in cases of appeal to the High Court from the sentence or order of a Sessions Judge, the record shall be forwarded to the High Court by the Sessions Judge immediately on receipt of the notice of appeal directed to be forwarded to him by Circular Order, No. 9, dated 7th August, 1867.

But whenever, from any cause, public inconvenience would arise from the transmission of the original record, the Judge will forward, in the first instance, a certified copy of his reasons (Section 429 Code of Criminal Procedure) for making or passing such sentence or order, stating, at the same time, why the original record has not been immediately sent.

---

* CIRCULAR, No. 6, (94, Old Number).

DATED CALCUTTA, THE 6TH MAY, 1862.

H. T. Raikes,
C. B. Trevor,
G. Loch,
H. V. Bayley, and
C. Steer,
Esquires.

In modification of the orders contained in this Court's Circular, No. 26, (*below*) dated the 20th June, 1849, I am directed to inform you that the Court have determined that on any appeal being presented to you for submission to the Sudder Court, if the case so appealed has been tried with the aid of Assessors, all the proceedings connected therewith are to be forwarded as heretofore for the consideration of the Court, in case it may be necessary on a perusal of the petition of appeal to refer to the record. Should you, however, have tried the case with a *Jury* under Section 322 of the Code of Criminal Procedure, it will be necessary only to forward to the Court the petition of appeal.

2. Your special attention is requested to Section 416, which enacts that "every petition of appeal shall be accompanied by a copy of the sentence "or order appealed against."

No. 26.

Dated the 20th June, 1849.

The Court request that, in transmitting to them (in accordance with the Circular Order, No. 137, 19th May, 1848) petitions of appeal from the orders of the Sessions Courts in criminal trials, you will at the same time (provided the petitions be duly presented within the prescribed period of three months) transmit the records of commitment and trial, in original, without taking copies of them.

2. In the margins of letters transmitting the proceedings, in addition to the dates of the sentences appealed from and of presentation of the petitions, (required by the Circular Order, No. 172, 19th July, 1844) are to be entered the names of all the prisoners in the case, from the sentence in which one or more prisoners may have appealed, distinguishing the prisoners who have appealed from the others.

Circular, No. 5A.

DATED CALCUTTA, THE 7TH SEPTEMBER, 1868.

Mr. Justice Loch.
" " Bayley.
" " L. S. Jackson.
" " Macpherson.

The Court, having had under consideration the result of trials and preliminary inquiries before the Magistrates in 1867, as shown in the annexed Table, promulgate the following general Rules upon the subject :—

Every Magistrate, who is authorized to receive complaints, is enjoined to comply strictly with the provisions of Sections 66 and 67 of the Code of Criminal Procedure. The examination of the complainant is not to be a *mere form*, but an intelligent inquiry into the subject-matter of the complaint, carried far enough to enable the Magistrate to exercise his *judgment* as to whether there is or is not sufficient ground for proceeding.

Where it appears to the Magistrate that there is sufficient ground for proceeding, he is to issue his summons, or in certain cases his warrant, for the appearance of the accused before the Magistrate himself, or before some other Magistrate having jurisdiction in the case. Where, in the judgment of the Magistrate, there is no sufficient ground for proceeding, he is to dismiss the complaint. The examination of the complainant is to be upon oath or solemn affirmation, and is to be taken by the Magistrate himself.

The order upon such examination for the issue of warrant or summons, or for dismissing the complaint, shall be in the hand-writing of the Magistrate himself.

The provisions of Section 180 should be resorted to in cases of doubt, in respect of the offences to which this Section applies. When a Magistrate directs a previous enquiry to be made into the truth of a complaint under the provisions of Section 180, he should fix a day for the further appearance of the complainant, and for taking into consideration the report

of the Officer directed to make such enquiry, with a view to the issue of process or otherwise, as the Magistrate may find proper.

Complaints should be received at a fixed hour each day, and should be immediately numbered in the order of their receipt. They should then be entered in a book, to be kept in the form annexed. This book should be kept under the special control of the Magistrate himself.

It will be the duty of the Magistrate of the District to take care that these Rules are exactly observed by all Magistrates within the district who receive complaints, and he should impress it upon his subordinates that the object in view is not to secure a certain proportion between acquittals and convictions—*That* is, merely a result which may suggest a necessity for inquiry—the real object of the Rules, is to ensure that *no person shall be compelled to appear before a Magistrate to answer to a criminal charge, unless a Magistrate has first satisfied himself that there is reason for proceeding against such person.*

The very knowledge that the complainant will be at once brought face to face with the Magistrate, and that his examination will be a reality, may be fairly expected to have the effect of keeping out of Court many false and some exaggerated complaints, and the examination itself will show the slight foundation on which many charges rest.

In cases where the Magistrate may have a suspicion that the charge is false or vexatious, but the suspicion is not sufficiently strong to justify him in withholding process, he may fairly warn the complainant of the risk which he runs of being prosecuted for a false complaint, or of being ordered to pay something to the accused by way of amends. But he will, of course, be careful not to do so in such a manner as to deter honest complainants.

It will be the duty of the Sessions Judge, whenever he has reason to believe that proper care as to the issuing of process has not been exercised by his subordinates, to inquire how far the Rules above laid down have been observed and carried out.

TABLE.

1	Total Result.				Result as to cases tried or committed by the Magistrates.		Result as to arrests by the Police.		Result as to committals.	
	2	3	4	5	6	7	8	9	10	11
Districts.	Total number of accused disposed of.	Per cent. of these convicted or committed.	Per cent. acquitted or discharged.	Per cent. discharged under Sections 225 and 250, C. C. P.	Per cent. convicted or committed.	Per cent. released.	Per cent. convicted or committed.	Per cent. released.	Per cent. convicted.	Per cent. acquitted.
Mymensingh, ...	4,377	52	48	20 8	51	49	62	38	68.4	31.6
East Burdwan, ...	6,200	41	59	15.8	34	66	60.4	39.6	62	38
Sarun, ...	3,120	57	43	26	65.6	34.4	49.4	50.6	73.3	26.7
Nuddea, ...	4,396	53	47	29.4	55.2	44.8	61	39	74.6	25.4
Jessore, ...	5,782	47	53	23.6	40	60	65.6	34.4	69	31
Backergunge, ...	6,203	40	60	20	37	63	65.3	34.7	49.25	50.75
Midnapore, ...	3,305	67	33	12 6	66	34	71	29	59	41
Rajshahye, ...	2,730	62	38	13.1	57	43	70	30	70	30
Pubna, ...	1,905	47	53	21.1	72	28	21	79	55	45
Dacca.	4,047	58	42	28	61	39	52	48	50	50
Furreedpore, ...	1,574	63	37	6.1	66	34	56	43	77	23
Chittagong, ...	2,907	51	49	33.6	45	55	70	30	60	40

West Burdwan, ...	4.151	22	78	11.8	82	18	66	34	92	8
Beerbhoom, ...	2,410	65	35	22.9	69	31	54	46	82	18
Hooghly,...	4,806	59	41	14	54	46	68	32	50	50
Howrah, ...	4.566	67	33	13.7	36	64	86	14	76	24
Shahabad, ...	2,343	46	54	13.4	41	59	55	45	64	36
Rungpore, ...	1,886	48	52	26 1	54	46	33	67	74	26
Bogra, ...	2,353	39	61	34.7	28	72	63	37	77	23
Sylhet, ...	4.533	79	21	15.4	87	13	49	51	56	54
Bhaugulpore, ...	1,792	71	29	13.4	67	33	77	23	56	44
Monghyr, ...	3.114	61	39	6 8	54	46	67	33	69	31
Moorshedabad, ...	3 209	47	53	24.8	42	58	52	48	58	42
Tipperah,...	3,051	65	35	16.7	65	35	63	37	81	19
Noakhally, ...	2,515	53	47	24	52	48	59	41	60	40
Patna, ...	4.766	57	43	10 2	56	44	60	40	58	42
Purneah,...	2,512	48	52	18 5	46	54	51	49	59	41
Cuttack, ...	3,345	50	50	29.1	39	61	63	37	37	63
Balasore, ...	2,196	54	46	24 8	29	71	71	29	61	39
Pooree, ...	2,549	52	48	27	79	21	26	74	28	72
24-Pergunnahs, ...	11,751	59	41	18.6	40	60	75	25	47	53
Dinagepore, ...	1.221	57	43	34 4	38	62	71	29	65	35
Maldah, ...	689	62	38	23.9	68	32	47	53	44	56
Gya,...	2.344	68	32	21.2	71	29	63	37	67	33
Tirhoot, ...	2,695	58	42	16 5	53	47	69	31	74	26
Chumparun, ...	1,547	55	45	22.9	65	35	45	55	30	70
Total, ...	1,22.890	1,980	1,620	734.9	1964.8	1635.2	2136.7	1462.3	2231.38	1375.92
Average for 35 districts, ...	3413.6	55	45	20.4	54.5	45 5	59.4	40.6	61.98	38.22

REGISTER OF CRIMINAL COMPLAINTS.

Serial No. for month.	Date.	Name of Complainant.	Thannah.	Offence charged with Section of Penal Code.	Orders passed.	Remarks.

Circular, No. 6.

DATED CALCUTTA, THE 9TH SEPTEMBER, 1868.

Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

The High Court are pleased to direct that the submission of Sessions Statement No. 5* be discontinued, and that no cases be included in Sessions Statement No. 4,† which have been referred to the High Court under Chapter XXVIII. of the Code of Criminal Procedure.

* *Abstract Statement of persons acquitted before the Court of Sessions.*

† *Abstract Statement of Prisoners punished without reference to the High Court, by the Court of Session.*

Circular, No. 7.

DATED CALCUTTA, THE 10TH SEPTEMBER, 1868.

Mr. Justice Loch.
" " Bayley.
" " L.S.Jackson.
" " Macpherson.

Difficulty and doubt having arisen in the preparation of the "*Roll of Released Prisoners*," (kept by the Police Department) in consequence of the non-insertion, in warrants of imprisonment, of the place of residence of persons convicted and sentenced, the High Court are pleased to direct that in future Judicial Officers shall enter in the warrants issued to Officers in charge of Jails, the *residence* of the persons whom they convict and sentence.

INDEX.

A.

ACCUSED person how to be examined, ... 52,60,68,80
Examination of, in what language to be recorded, 60,68,80
Should, as a general rule, be examined before being committed, ... 60
Can only be remanded for fifteen days, ... 52
Postponement of trial of, at Sessions, ... 115-116
supposed to be of unsound mind at the time of committing act amounting to offence, ... 106
Examination of, to be put in and read at Sessions before accused person is called upon to enter on his defence, ... 109
So must examination of Medical or deceased witness, &c., ... 109
while of unsound mind should not be examined or committed or tried, ... 61-63
Recognizances from and their sureties how to be taken, ... 63
ACQUITTAL: Discharge under Section 225, C. C. P. does not amount to, ... 96
Acquittals under Sec. 255 how shown in statements, 25,66,67,71
Table showing acquittals and convictions in 35 districts for 1867, ... 126
ADJOURNMENTS how and for how long to be made, ... 52
Witnesses remaining over one day, should be examined on first sitting of Court the following day, 81
of trial of prisoners committed to the Sessions, ... 115-116
ALPHABETICAL Register of persons convicted of certain offences, ... 75
ALTERNATIVE FINDING in cases of false evidence, ... 23-24
APPEALS: Notice of appeal from his orders to be given to Sessions Judge by Officer in charge of Jail, ... 108
Sessions Judge, on receipt of notice, to send record to High Court, ... 123
may send copy of his reasons for passing sentence when, ... 123

	Page
APPEALS.—*Continued.*	
pending more than 30 days: Explanation to be given as to, ...	4,81
Further enquiries, or the taking of additional evidence to be promptly attended to, ...	81
from sentences of whipping, ...	44
how to be shown in the returns, ...	56
form of the return of such appeals,... ...	58
Officers in charge of jails how to deal with petitions of appeal from orders of Sessions Judges,	107
These petitions must be presented in time, and must be accompanied with copy of order appealed against, ...	108
Rules for transmission of records to High Court in cases of appeal, ... 123 and	*note.*
in criminal trials how to be shown in the Sessions statements,...	115
convictions under Act V. of 1861 appealable as other convictions, ...	83
APPOINTMENT: Salary of, not to be drawn by person not performing duties of, ...	78-79
ARREST: Warrants of, how to be drawn up, ...	70
ASSESSORS: Opinions of, how to be shown in Sessions statements, ...	101,102
how to be recorded, &c., ...	72-73
AVERAGE duration of cases: Cases of lunatics not to be included in calculation of, ...	94

B.

BAIL: when it *may* be taken, and when it *must* be taken,	21
BLANK statements not to be sent up, but fact to be noted on the other statements, ...	113
BRITISH SUBJECT: See EUROPEAN BRITISH SUBJECT.	

C.

CALENDAR: New form of, prescribed, ...	16-17
to be discontinued; and substitution for, ...	117,118
CAPITAL CASES: See JUDGES.	
Warrants for execution of, need not be submitted to High Court, ...	35
Improper or careless mode of execution to be reported to High Court, ...	35
CHARGES against public servants: sanction when required for making and when not, ...	69
Instructions for drawing up charges under the Indian Penal Code, ...	105
in cases of 'false evidence,'	23-24,84

Page

CHARGES.—*Continued.*
of murder how to be drawn, ...
of culpable homicide not amounting to murder how to be drawn, ... 105
of voluntarily causing grievous hurt, ... 105
of rape, ... 107
CIVIL COURTS to be guided by rules laid down for Magistrates as to making commitments, ... 118
CLERK OF THE CROWN: Records of cases committed by Justices to be sent promptly to, ... 46
Copy of warrant of commitment to accompany, ... 47
Justices requiring advice should not apply to, but to Solicitor to Government, ... 48
has nothing to say to paying expenses of witnesses, &c., in cases committed from the Mofussil, ... 49
CODE OF CRIMINAL PROCEDURE: Errors in Bengalee translation of, pointed out, ... 2-3
attention drawn to amendments of, by Act VIII. of 1866, ... 85-87
Act VIII. of 1866 to amend the Schedule to, ... 89
Discharge under Section 225 of, does not amount to an acquittal, ... 96
Meaning of the words "*immediately subordinate*" in Section 434 of, ... 97
New forms of warrants suited to, prescribed, ... 8-16
Erratum in, ... 21
Section 318 of, does not apply to *ijmalee* property, 22
Reports on doubtful points in, to be made to High Court, ... 36-37
References under Section 434 to High Court, how to be made, ... 38-39
Distinction between case of person liable under Section 270 of, and person liable under Section 211, P. C.,... 40
Instructions for drawing up charges under, ... 105
Examinations admissible in evidence under S. S. 366—368 & 369 how to be dealt with at Sessions, . 109-110
Form for warrants of arrest prescribed by, to be closely followed, ... 70
COMMISSIONER of Police of Calcutta pays expenses of witnesses in cases committed from the Mofussil,... 49
COMMITMENT: See EUROPEAN BRITISH SUBJECTS.
Instructions to guide Magistrates in making commitments, ..., 82,95-96,117-118
Form of letter to Sessions Judge giving notice of, ... 118
not to be made, when act comes within one of the General Exceptions of Penal Code, ... 96

Page

COMMITMENT.—*Continued.*
Cannot be quashed by a Sessions Judge, ... 24,32,52
who should proceed how, ... 52-53
of person supposed to be of unsound mind at time of committing act, ... 106
Accused person should, as a general rule, be examined before being committed, ... 60
should not be committed while of unsound mind, ... 63
COMPARATIVE Statement of evidence: Form of, ... 54-55
COMPLAINANT: how to be examined, ... 124
Examination of, not to be a mere form, ... 124
may be warned, where Magistrate suspects the charge to be false or vexatious, ... 125
COMPLAINTS: Magistrates how to receive and deal with, 49-50,124-127
further enquiry before issue of process should be made when, ... 124-125
Withdrawals of, how to be shown in the Returns, 66-67
to be received at a fixed hour every day, ... 125
to be numbered and entered in a book, ... 125,128
Magistrate of District to see that his subordinates attend to the rules, ... 125
CONVICTIONS: Register of, for certain offences to be kept, and form for, ... 74
under Act V. of 1861 appealable as other convictions, ... 83
Table showing acquittals and convictions in 35 districts for 1867, ... 126
COPIES: See MEMORANDA of evidence.
of decisions, as well as translations, to be furnished to parties desirous of appealing, ... 3
of final sentences or orders in Criminal cases, when exempt from stamp duty, ... 18
of judgment of Sessions Judge, when, how, and for what purposes obtainable by Magistrates, ...41 and *note.*
Petitions of appeal must be accompanied with copy of order appealed against, ... 108
Sessions Judge, instead of record, may send copy of his judgment in appeals to High Court when, 123
CORPORAL PUNISHMENT: See WHIPPING.
COURTS: See JUDGES: MAGISTRATES.
Copies of final sentences and orders of Criminal Courts, when exempt from stamp duty, ... 18
Court should be attended punctually, ... 52
of Sessions Judges not to be closed for Dusserah while any Criminal business is undisposed of, ... 109
Return of value of stamp fees realized in Criminal Courts in 1859 called for, ... 84

Page

CULPABLE HOMICIDE: what to be stated in convictions for, not amounting to murder, ... 18-19
Charge of, not amounting to murder, how to be drawn, ... 105

D.

DECISIONS: Authenticated copies in English, as well as translations of, to be given to persons desirous of appealing, ... 3
DELAY in submission of statements, ... 28-29 *note.*
DEPOSITIONS of witnesses, in cases committed to High Court, how to be recorded, ... 47-48
DIET-MONEY of witnesses in petty cases: no provision for, in Criminal Procedure Code, ... 1
DISCHARGE under Section 225, C. C. P. does not amount to an acquittal, ... 96
under Section 250, C. C. P. how shown in statements, ... 25
DUSSERAH VACATION: Judges not to close their Courts for, till receipt of High Court's orders in capital cases, ... 79,93,108-109

E.

ENGLISH: See DECISIONS.
Sessions Judges to record evidence in, &c., ... 79
ENQUIRY into truth of complaint should be made before issue of process when, ... 124-125
ESCAPED PRISONERS: Cases of, not to be shown as pending on files of Sessions Judges, ... 110
Records relating to, must be kept, ... 77
ESTABLISHMENT: Salary of appointment on, not to be drawn by person not performing duties of, ... 78-79
EUROPEAN BRITISH SUBJECTS: Directions as to the commitment of, ... 46-49,89-91
Warrants for commitment of, to whom to be directed, and form for, ... 90
to be delivered to Police Officer in charge of prisoner, to whom should be directed a second warrant, ... 90
Form for this second warrant, ... 91
This Police Officer should be able to prove prisoner's signature to his examination, ... 49
Irregularities in commitment of, noticed, ... 90
Where to be tried, ... 91-92,94-95
Records in cases of commitment of, to be sent promptly to the Clerk of the Crown, ... 46
Copy of warrant of commitment to accompany, ... 47

	Page
EUROPEAN BRITISH SUBJECTS.—*Continued.*	
Proceedings of Magistrate, who, not having jurisdiction, has made an enquiry, not to be sent up, ...	48
and native subject charged together with same offence: latter to be committed to local Sessions Court, ...	82
EVIDENCE: Judicial officers to make memoranda of, in own hand-writing, ...	51
if unable to do so, to record reason of inability, ..	51
Press of business no excuse for omitting to make,	51
Memoranda of substance of, to be legible, ...	2
If not, copies to be sent with records to High Court,	2
Lengthy expositions of, not to be given by Sessions Judges in their Returns, ...	27 *note.*
of every witness to be recorded in presence of officer who decides the case, ...	51
exception in cases under Section 277, C. C. P.,...	51
Form for comparative statement of, ...	54-55
Sentences how to be recorded, as the facts in evidence constitute one or more separate offences,...	64
English to be language of, in Sessions Courts, ...	79-80
EXAMINATION of complainants how to be conducted, ...	50-51,124
not to be a mere form, but an intelligent inquiry, ...	124
of witnesses how to be conducted, ...	50-51
what particulars to be recorded in, ...	68-69
of accused person how to be conducted, ...	50,52,60,63
accused person should, as a general rule, be examined before being committed, ...	60
of accused person, of Medical witness, of deceased witness, &c., when to be put in at Sessions, ...	109
what necessary to render such examinations admissible in evidence, ...	109
when admitted, to be detached from record of preliminary enquiry and annexed to record of trial, ...	110
if rejected, may be forwarded to High Court when and how, ...	110
EXCEPTIONS: General, under Penal Code: See PENAL CODE:	
in Section 300, Penal Code, to be mentioned in convictions for culpable homicide not amounting to murder, ...	18-19
charge how to be drawn when exceptions are negatived, ...	105
EXECUTION: See CAPITAL SENTENCE.	
EXPENSES of witnesses in cases committed to High Court by whom paid, ...	49

Page

EXPLANATION to be given of appeals pending more than 30 days, ... 4,81
and of witnesses delayed longer than two days, ... 52

F.

FALSE CHARGE: Procedure in respect of persons suspected of making, ... 39-40
FALSE EVIDENCE: Procedure in cases of, explained, ... 22-24
Alternative finding in cases of, ... 23-24
How evidence of a witness suspected of giving, should be taken, ... 46
Particular statement on which perjury is assigned, to be inserted in charge, ... 84
FEMALES not punishable with whipping, ... 44
FINES: Register of, ... 30-31
New form for annual Register of, prescribed, ... 111
Sessions Judges to examine detailed Register and certify, ... 111
May be levied at any time within six years, ... 31,53-54
Procedure to be followed for levy of, ... 53
Warrant for levy of, to be directed to Police Officer, and to be returnable in a certain time,... 53
claims to distrained property by whom to be dealt with, ... 53
FLOGGING: See WHIPPING.
FORM: Report of the "Forms Committee"—Forms to be discontinued, &c., ... 25 *note*, &c.
of Calendar, ... 16-17,117-118
of Warrants, ... 8-16,90,91,93,94
of Sessions Statements, ... 32-33,100,104
New forms of Periodical Criminal Statements and directions as to, ... 24-34
Magistrates' Forms, ... 25-32 and *note*.
Alteration in, ... 65,66,67,68
Sessions Forms, ... 32-33, and 26 *note*.
of return of sentences of whipping and appeals in such cases, ... 57-58
of report P. to High Court of doubtful points under P. C. and C. C., ... 37
of Register of Fines, ... 111
of Register of Convictions, ... 74

H.

HIGH COURT: Criminal Sessions of, when held, ... 47, 90-91
Sittings of, under a commission, (Act XIII of 1865), ... 72

Page

HIGH COURT.—*Continued.*
Instructions for commitment of European British subjects for trial at, ... 46-49,89-92,94-95
native subject charged together with British subject not to be committed to High Court, ... 82
Sessions statements intended to enable, to exercise the power of revision, ... 101
References of Magistrates to, should be sent up through Judge, ... 22
Judge should not refuse to forward such references, 24
Warrants for execution of capital sentence need not be submitted to, ... 35
Improper or careless mode of execution of such sentences to be reported to, ... 35
Reports on doubtful points in P. C. and Q. C. P. to be made to, and in what form, ... 36-37
can alone quash commitments 53
HOMICIDE: See CULPABLE HOMICIDE.
HURT: Charge of Grievous, how to be drawn, ... 105

I.

IJMALEE property: Section 318, C. C. P. does not apply to, ... 22
IMPRISONMENT: Return called for, of prisoners sentenced to terms of seven years and upwards ... 4-5
and as to persons sentenced to, for offences punishable with flogging before Penal Code, ... 20
Persons sentenced to simple, cannot be compelled to work, ... 71-72
INSANITY: See LUNATIC.
INTERPRETER: when and how to be employed by Sessions Judges, ... 80

J.

JAIL: See PRESIDENCY JAIL: PRISONER.
Deliveries, See JUDGES.
Returns of Jail delivery how to be made, ...101,113-118
Officers in charge of Jails how to deal with petitions of appeal from orders of Sessions Judges, ... 107
Warrants of release and sentence to be directed to Officer in charge of Jail, ... 80
JAILOR: See WARRANT.
JUDGMENT: Copy of, of Sessions Judge when, how, and for what purpose obtainable by Magistrate, 41
JUDGES: Sessions Judges how to pass sentence of transportation, ... 92
to try at commencement of Sessions, capital cases for disposal at Jail delivery next before the vacation, ... 79,92,108-109

Page

JUDGES.—*Continued.*
not to close their Courts for Dusserah, till receipt of High Court's orders in such cases, . 79, 93, 108-109
nor so long as any criminal business remains undisposed of, ... 109
how to prepare Annual Statement No. 10, ... 94
Warrants of, to be issued to *Magistrate or other officer in charge of the Jail*, ... 98
Instructions to, as to the preparation of Sessions statements, ... 100-103, 113-118
how to empanel Jury, ... 73
to mention what in convictions for culpable homicide not amounting to murder, ... 18-19
how to record opinions of Assessors and verdict of Juries, ... 72-73
to give their opinion regarding the finding of the Jury, ... 19
discretion of, in the matter of bail, ... 21
References of Magistrates to High Court should be sent through Judge, ... 22
Cannot quash commitments, ... 24, 32, 52
how they should proceed to have them quashed by the High Court, ... 52-53
Should not refuse to forward Magistrate's references, ... 24
not to give *lengthy* expositions of the evidence in their returns, ... 27 *note.*
Duty of, in order to secure punctual submission of statements, ... 28 *note.*
to report doubtful points in P. C. and C. C. P. to High Court, ... 36-37
when reported by Magistrate, Judge how to act, ... 36
to see that Magistrates follow the rules as to receiving and dealing with complaints, .. 125
how to make references to High Court under Section 434, C. C. P. 38-39
Magistrates may obtain copy of judgment of, when, how, and for what purposes, ... 41
reminded of certain provisions of the Whipping Act, 43
how to conduct the examination of witnesses, &c., 50-51
to sit punctually, or to record the reason for not doing so, ... 52
to submit annual returns of whipping, ... 56
to be informed *by officers in charge of Jails* of appeals from their orders, ... 108
on receipt of such notice to forward the record to the High Court, &c., ... 123

	Page
JUDGES.—*Continued.*	
may forward *copy* of reasons for passing sentence when, ...	123
cases of escaped prisoners not to be shown as pending on files	110
new form of annual Register of Fines in Courts of,	111
to examine detailed Register of Fines and certify,...	111
not to allow salary of appointment to be drawn by a person not performing duties of, ...	78
how to proceed in cases of *lunatic* accused persons,	62
how to record sentence, ...	64
Rules for conducting Sessions by, ...	115-117
How to postpone trials, ...	115-116
when and how to employ an interpreter, ...	80
attention of, drawn to Act XIII. of 1865 and sittings of High Court under a commission, ..	72
and to notification introducing English as language of record of evidence in Sessions Courts, ..	79-80
to visit Record-room and attend to preservation, &c. of records, ...	76
and to mention state of, in their Criminal Reports, ...	77
will be held personally responsible for carelessness in this respect, ...	76
JURY how to be empanelled:	73
Verdict of, how to be shown in Sessions statements.	101, 102
How to be recorded, ...	73
Judges to note their opinion as to, ...	19
JUSTICE OF THE PEACE: Instructions to, as to commitment of European British subjects, ...	89-92,94-95
Requiring advice should apply, not to Clerk of Crown, but to Solicitor to Government, ...	48
JUVENILE OFFENDERS; punishable with whipping, ...	43
Form of return of these sentences, ...	58

L.

LUNATICS: Instructions to the District Criminal Authorities for dealing with cases of, ...	61-63
Cannot be committed or tried as long as unsoundness of mind continues, ...	61-62,63
may be released on bail until sane, if offence be *bailable*, ...	61
if offence *not bailable*, must be kept in custody, ...	61
Magistrate may resume investigation when, ...	61
Magistrate how to proceed, if offence charged be triable by him, ...	62
how, if not triable by him, ...	62

Page

LUNATICS.—*Continued.*
Sessions Judge how to proceed, ... 62
should distinctly state in their finding whether the accused committed the act or not, ... 70-71
reported of sound mind and capable of making their defence, should be tried at once, .. 51
Commitment of person supposed to be of unsound mind at time of committing act, ... 62, 106
cases of, not to be included in calculation of the *average duration* of cases, ... 94

M

MAGISTRATE OF THE DISTRICT: What Magistrates are "*immediately subordinate*" to him, ... 97
how to deal with erroneous proceedings of such Magistrates, ... 97
Duty of, as to prisoner's warrants, ... 98-99
Warrants of Release and sentence to be directed to officers in charge of Jail and not to, ... 80
Forms of statements to be submitted by, 25-32
alteration in these forms, .. 65, 66, 67, 68
how to receive and deal with complaints, 49-50, 124-127
to submit quarterly returns of whipping, ... 56
new form of Register of fines in Courts of, ... 111
Sessions Judges to examine detailed Fine-Register in offices of, ... 111
Duties of, in connection with commitments to Sessions, ... 117-118
Register of Convictions to be kept in office of, ... 74-75
sub-divisional officers to report their entries every month for incorporation in district Register, ... 74
to visit Record-room and attend to arrangement of the records,... 76
will be held personally responsible for expense arising from carelessness in this respect, ... 76
to mention the state of their Record-rooms in the Criminal Report, ... 77
carefully to supervise the returns of their subordinates relating to detention of witnesses, ... 82
to see that their subordinates follow the rules for receiving and dealing with complaints, ... 125
how to prepare annual Statement No. 6, ... 94
MAGISTRATES: See MAGISTRATE OF THE DISTRICT.
Instructions to, as to the commitment of European British subjects, ... 46-49, 89-92, 94-95
as to commitments under Code of Criminal Procedure generally, ... 95-96, 117-118

Page

MAGISTRATES.—*Continued.*
what Magistrates are "*immediately subordinate*," (Section 434, C. C. P.),... 97
cannot direct release of salt seized under Section 18, Act VII. (B. C.) of 1861, ... 99
must accept bail when, ... 21
References of, to High Court should be sent through Judge, ... 22
who should not refuse to forward such references, ... 24
Cases referred by Subordinate Magistrates to Magistrate of District to be shown in statements, .. 28-29
to report doubtful points in P. C. and C. C. P. to High Court, ... 36-37
how and when to make references to High Court under Section 434, C. C. P., ... 38-39
when, how, and for what purposes may obtain copy of Sessions Judge's judgment, ...41 and *note.*
How they should record evidence of witnesses suspected of giving false evidence, ... 46
requiring advice as to commitments to High Court to apply to Solicitor to Government, ... 48
how to receive and deal with complaints, 49-50,123-124
how to conduct the examination of witnesses, &c., 50-51
what particulars to be recorded in such examination, ... 68-69
to record memorandum showing cause of delay, if witnesses be detained more than two days, ... 52
to sit punctually, or to record reason for not doing so, ... 52
how to proceed to levy fines, ... 53-54
to decide claims to property distrained in levying, 53
how to proceed in cases of lunatic accused persons, 61-63
how to deal with cases of persons supposed to have been of unsound mind at time of committing act, 106
new form of Register of Fines in Courts of, ... 111
Duty of, in taking recognizances from accused persons and their sureties, ... 63
how to record sentence, ... 64
Records of Courts of, may be destroyed when, ... 77
Table showing result of cases tried and committed by, in 35 districts, ... 126
MEDICAL OFFICER to be present when sentences of whipping are carried out, ... 44,45
Examination of Medical witness when to be put in evidence at Sessions, ... 109
MEMORANDA of evidence to be legible, ... 2
If not, copies to be sent in appeal to High Court, 2

Page

MEMORANDA.—*Continued.*
Must be made by Judges and Magistrates, and must form part of the record, ... 51
MURDER: See CULPABLE HOMICIDE.
Charge of, how to be drawn, ... 105
Cases of, to be tried as early as possible before the Dusserah, so that High Court's orders may be received before closing,... ... 93-93,108-109

O.

OFFENCES under Penal Code how shown in the Returns, 30-32
Attempts to commit, and other offences how shown, 32

P.

PENAL CODE: Commitment, when Act comes under general exceptions of, ... 95-96,105
Report called for on practical working of, as connected with the suspension of corporal punishment, ... 6—7
Offences under, how shown in the returns, ... 30-32
Reports upon doubtful points in, to be made to High Court, ... 36-37
Instructions for drawing up charges under, ... 105
PERJURY: See FALSE EVIDENCE.
POLICE: See SUMMONS.
-officer in charge of European British subject: Warrant to be directed to, &c., ... 90
Summons on police-officer to be served through the District Superintendent, &c., ... 95
Levy of fines through the instrumentality of, ... 53-54
Evidence given before, cannot be treated as part of the record, ... 54
Convictions under Act V. of 1861 appealable as other convictions, ... 83
Table showing acquittals and convictions of persons arrested by, in 35 districts, ... 126
POSSESSION: of *ijmalee* property cannot be given under Section 318, C. C. P., ... 22
POSTPONEMENT: See ADJOURNMENT.
PRELIMINARY ENQUIRY: Instructions to Magistrates as to making commitments after, ... 95-96
PRESIDENCY JAIL: See SUPERINTENDENT of.
PRESS of Business no excuse for not making memorandum of evidence required by law, ... 51
PRISONER: See WARRANT.
detained in jail in consequence of Register of Warrants not being carefully kept up, ... 46
Preparation of *Roll of Released Prisoners*, ... 129

Page

PROCEDURE: See CODE of CRIMINAL PROCEDURE.
in respect of orspons suspected of making a "false chargo," 39-40,125
in respect of persons giving false evidence, ... 22-24
Difference between procedure as to Section 270 C. C. P. and Section 211, P. C., ... 40
PROCESS: Issue of, on complaints being made, how to be regulatod,... 124-125
PUBLIC SERVANTS: Sanction whon required for making charges against, ... 69

R.

RAPE: Charge of, how to be drawn up, ... 107
RATTAN to be used for whipping, ... 42, 44, 45
RECOGNIZANCES how to be taken from accused persons and their sureties, ... 63
RECORDS: Sessions Judges and Magistrates should visit Record-room and see to, ... 76
will be held personally responsible for expense arising from carelessness as to, ... 76
must make mention of state of Record-rooms in their Reports, ... 77
Rules for preservation and destruction of, ... 77-78
Rules for transmission of records to High Court in cases of appeal, ... 123 and *note*.
REFERENCE: See MAGISTRATES: REPORT.
under Section 434 C. C. P. how to be made to High Court, ... 38-39
REGISTER of prisoners' warrants to be carefully kept up, and form for, ... 93-94
of fines, ... 30-31
REMAND can only be for *fifteen* days, ... 52
REPORT: See RETURN. STATEMENT.
on doubtful points in P. C. and C. C. P. to be made to High Court, ... 36-37
Judges and Magistrates to mention the state of their record-rooms in the Criminal Report .. 77
RETURN: See STATEMENT.
called for, of prisoners sentenced to transportation and imprisonment for seven years and upwards, 4-5
of value of stamp-fees realized in Criminal Courts in 1859 called for, ... 84

S.

SALT seized under Section 18, Act VII. (B. C.) of 1864 cannot be released by a Magistrate, ... 99
SENTENCES how to be recorded, ... 64

Page

SENTENCES.—*Continued*
when all the facts in evidence form portion of *one entire offence*, ... 64
when one portion of the facts constitutes one offence, and another portion another and distinct offence, ... 64
of solitary confinement, and additional sentences to be marked in red ink in the statements, ... 116
SERVICE of criminal processes; See SUMMONS.
SESSIONS of High Court: See HIGH COURT.
-Judges: See JUDGES,
-Court: Records of, may be destroyed when, ... 78
English to be language of record of evidence in, 79-80
Persons convicted by Magistrate under Act V. of 1861 can appeal to, ... 83
Forms, ... 32-33,119-121
Trial: Examination of accused person before Magistrate, when to be put in and read at, ... 109
and of medical witness, deceased witness &c., .. 109
Postponements of Sessions trials how to be made, 115-116
New Rules as to holding of Sessions by District Judges, ... 113-118
Returns of each Session to be henceforward submitted at the close thereof, ... 114
Returns of appellate and other business to be submitted *quarterly*, ... 114
when to be held, and time of holding how to be fixed 116-117,118
SESSIONS STATEMENTS: Instructions for the preparation of, ... 100-103,113-118
New forms of Nos. 1, 2, and 3, ... 114,115,119-122
of No. 4, ... 100,104
forms by whom to be supplied, ... 100
No. 5 discontinued, ... 128
SOLICITOR to Government, Justices requiring advice should apply to, and not to Clerk of Crown, ... 48
STAMP DUTY: copies of sentences and orders of criminal Courts when exempt from 18
Returns of stamp-fees realized in Criminal Courts in 1859 called for, ... 84
STATEMENTS: See SESSIONS STATEMENTS.
Mode of preparing Judges' No. 10 and Magistrates' No. 6 annual 94
New forms of *Periodical Criminal Statements* and directions as to, ... 24-34
Alteration of heading affecting *criminal trespass* in, 65
and of columns showing acquittals in, ... 66-68
Name and work of officers to be shown separately in, 28 *note*.

Page

STATEMENTS.—*Continued.*
Importance of careful supervision of, ... 28 *note.*
Dates for submission of, ... 28 *note.*
what, to be retained and discontinued, ... 29 *note.*
Blank statements not to be sent up, but fact to be noted on other statements, ... 113
SUB-DIVISIONAL OFFICERS to keep *Registers of Convictions* and forward monthly extracts to Magistrate of District, ... 74
SUBORDINATE: Meaning of "*immediately subordinate*" in Section 434, CC P. 97
SUMMONS: Service of criminal processes otherwi e than through the Police 3
on police-officer as a witness to be served through the District Superintendent .. 95
on Sub-Assistant Surgeons or Native Doctors how to be served 112
SUPERINTENDENT of Presidency Jail: Warrant for commitment of European British subject to be directed to, and form for warrant, ... 90
SURGEON: Summons on Sub-Assistant or Native Doctors how to be served, ... 112

T.

TRANSLATIONS: Authenticated copies in English, as well as translations of decisions to be furnished to parties desirous of appealing, ... 3
TRANSPORTATION: Sentence of, how to be passed, ... 92
Return called for, of prisoners sentenced to, .. 4-5,34,110
TRESPASS: Alteration of heading affecting *criminal* trespass in Magistrate's statements, ... 65,66

U.

UNSOUND MIND: See LUNATIC.

V.

VERNACULAR: See TRANSLATIONS:
Register of previous convictions for certain offences to be kept in the, ... 74
expressions made use of by witnesses how to be recorded by Sessions Judges, ... 79-80

W.

WARRANTS: of commitment of European British Subjects how to be directed, and form for, ... 90
A second warrant to be directed to Police officer in charge of such prisoners, ... 90
Form for this warrant, ... 91
Register of warrants of imprisonment to be carefully kept up, and form for, ... 93-94

Page

WARRANTS.—*Continued.*
Detailed instructions as to the issue of, by Sessions Judges and Magistrates, ... 98-99 and *note*.
Sessions Judges to issue their warrants to the *Magistrate or other officer in charge of the Jail*, ... 98
Who is to issue a separate warrant to the Jailor for each prisoner, ... 59 *note*, 98
which is to accompany the prisoner wherever he may be sent, ... 59 *note*, 98,99 *note*
Copy of this warrant to be given to the prisoner, ... 59 *note*, 99 *note*.
of Release and Sentence to whom to be directed, ... 80
Return of warrants on expiration of sentence or death of prisoner, ... 34-35 *and note*, 99 *note*.
New forms of warrants, suited to Code of Criminal Procedure prescribed, ... 8-16
Residence of prisoners sentenced, to be inserted in these warrants, ... 129
for execution of capital sentence need not be submitted to High Court, ... 35
of arrest how to be drawn up, ... 70
WHIPPING: Report called for on the subject of corporal punishment, ... 6-8,20
Instructions as to the provisions of the Whipping Act, ... 42-45,112-113
The punishment how to be inflicted, ... 42,45
and in presence of whom, ... 44,45
Sentence of whipping when *in lieu* of and when *in addition to* other punishment, ... 42,43,112,113
Prisoner, not previously convicted, cannot be whipped and otherwise sentenced, when convicted at same time of two offences, ... 113
Persons sentenced to death, transportation, penal servitude or 5 years' imprisonment not liable to, ... 43
Juvenile offenders punishable with whipping,... 43
Females not punishable with, ... 44
Sentence of, in addition to imprisonment when to be carried out, ... 44
Appeal from sentence of, ... 44
not to be inflicted by instalments, or if offender not in a fit state of health, ... 45
great care to be taken in exercising the powers conferred by the law, ... 45,113
Returns of whipping to be made *quarterly* by Magistrates and *annually* by Sessions Judges, ... 56
Form for these Returns, ... 57-58

	Page
WITNESSES: See DIET-MONEY:	
in petty cases; no provision in Criminal Procedure Code for payment of their expenses, ...	1
ordinarily to be brought by the parties, ...	2
and not to be summoned unless likely to give material evidence and unlikely to appear voluntarily, ...	2
how to be bound over to appear at Sessions, ...	117
and not to be unnecessarily harassed or detained,	117
memoranda of the substance of evidence of, to be legible, ...	2
if not, copies to be sent with record to High Court, ...	2
Proper steps to be taken to secure attendance of witnesses in cases of European British subjects committed to Calcutta Sessions, ...	47,90
Depositions of those witnesses how to be taken,...	47-48
Evidence of, suspected of giving false evidence should be recorded how	46
Expenses of, in cases committed to High Court by whom paid, ...	49
Examination of, how to be conducted, ...	50-51
What particulars to be recorded in, by Magistrates, ...	68-69
Evidence of, must be recorded in presence of officer who decides case	51
Exception in cases under S. 277 C. C. P, ...	51
for prosecution to be examined first, ...	52
Explanation to be given, if witness be detained longer than two days, ...	52
Examination of medical, and of deceased, and when to be put in evidence at Sessions, ...	109
what necessary, to render such examinations admissible in evidence, ...	109,110
when admitted, to be detached from record of preliminary proceedings and annexed to record of TRIAL,...	110
if rejected, may be forwarded to High Court when and how, ...	110
not to be treated like criminals and put in irons,...	69-70
not to be detained or bound over to appear another day, ...	81
remaining over from one day to be examined at first sitting of Court the following day, ...	81-82